

0070

**BOX:**

348

**FOLDER:**

3275

**DESCRIPTION:**

Sandowitch, Simon

**DATE:**

03/29/89



3275

0071

**BOX:**

348

**FOLDER:**

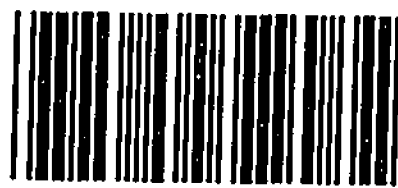
3275

**DESCRIPTION:**

Caplan, Philip

**DATE:**

03/29/89



3275



District Attorney's Office.

PEOPLE

vs. Brown -

Simon Sandowitch & Caplan

There have been two  
trials of this indictment  
resulting in a disagree-  
ment in each instance.  
I recommend that  
in view of above fact  
Defendants should be  
discharged on their own  
recognizance. The People  
ought to treat at present  
even though another trial  
be thought proper. I have  
not yet been able to  
give the case an exam-  
ination free enough to  
enable me to decide as  
to whether I should not ask  
a decision at this point.  
I will do so within a few  
days.

J. R. Fellows  
Dist. Atty.

Counsel,

Filed 29<sup>th</sup> day of March 1889

Pleads,

A THE PEOPLE

vs.

Simon Sandowitch

Philip Caplan

Defendant.

[Sec. 486 Penal Code.]

JOHN R. FELLOWS

District Attorney

3<sup>rd</sup> District, New York City  
March 28/89  
Filed with plea of discharge

Part II, December 6/88  
A TRUE BILL

My Accused Robert M. M.  
Simon Sandowitch & Caplan

For the People of the County of New York  
I, John R. Fellows, District Attorney,  
do hereby certify that the within  
indictment is a true bill.

0073

Grand Jury.

-----  
The People

vs.

Simeon Sandowich

And Philip Caplan.  
-----

James Mitchell sworn:

Examined by the Foreman:

Q. Tell the Grand Jury what the facts are in this case?

A. The case occurred on 3rd Avenue the 16th of February last. The fire alarm was given about 11--37; the parties who kept the premises stated in their affidavits made before me that they left the premises between nine and ten o'clock. There are two witnesses who swear to having seen them in the premises as late as 11 o'clock, and one five minutes after eleven o'clock; the fire broke out in two distinct places, one point about ten feet back from the window behind the stove, the other in the rear of the stove between shelving; the place was hermetically sealed and there was no ventilation so that the fire smouldered and did not burn rapidly, and it is not considered possible the fire could spread from one

0074

2.

part of the store to the other. Kerosine was found among some of the goods; I myself found it there; I perceived that some of the goods were saturated with kerosine. The parties had the same stock usually found in second or third class stores. The facts were so suspicious that I continued my investigation for some time. I should say the fire did not burn five minutes from the time the alarm was given, and then it smouldered; they afterwards put in a claim for \$3,100 worth of goods of which no vestige could be found, and some \$700 worth of goods injured. Since then they have reduced their claim and put in a sworn statement for \$750 and I think that ~~is~~ pretty nearly represents what was in the store at the time.

Q. For the whole stock or the amount of damage?

A. The amount of damage, because all the stock was more or less damaged.

Q. What do you consider the value of the entire stock in the store?

A. They place it at some \$740 on goods were found in the store.

Q. The only indication you have of these parties setting fire to the premises is from the discovery of kerosine in the goods?



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A. And two distinct fires in the store, and the fact that those people claimed to have left between nine and ten o'clock, and that they were seen as late as eleven o'clock there.

Q. That is all the information you have?

A. That is all.

Q. You say their first claim was how much?

A. \$3,100.

Q. And the second?

A. \$747 damages.

Q. That would make how much?

A. \$3847 worth of goods.

Q. You found in the place goods at a fair valuation worth only about \$700 or \$800?

A. According to their own valuation.

Q. Then the claim for \$3,100 you consider a false claim?

A. Yes sir.

Q. Have you any reason to suppose that these people done a paying business?

A. They don't claim to have done much business from the store; they done a pedling business. They owed at the time of the fire \$1600, and they had a bal-

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ance in bank of about \$250; they say there was a good deal due to them, but I cannot get any statement from <sup>them</sup> as to who they done their business with.

Q. There was no possibility of any amount of goods being burned?

A. No sir; they claim they put in \$700 worth of goods when they went to the store, and they have given me since goods they purchased amounting to some \$2,100,—\$2200, if their statement be true. But from the fact that there were only \$750 worth of goods found in the store, and that the fire was of very short duration, and destroyed little if any of the goods; and from the fact that they have a sworn loss of \$750 I think you can safely assume they never put in \$3,100 originally.

Q. Did you make any enquiries into their character?

A. I did; and as far as I could ascertain anything the parties with whom they dealt spoke well of them. Of course I have found in my experience that parties with whom they deal are apt to speak well of them.

Officer George H. Murray sworn:

Examined by the Foreman:

Q. Please tell the Grand Jury what you know about this case of arson?

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A. I was patrolling my post that night, the 16th of February; my tour of duty is from six o'clock to twelve; about twenty five minutes past 11, I guess, as near as I can judge, I seen a smoke issuing out over the fan light. It seemed as if the pipe had been disconnected from the stove; there was no flame. I tried the front and rear doors and both were locked; I tried to force the front and rear door but could not. Then I rapped the tenants up; it is a double flat, and hollered "fire!" up stairs, and then started for the engine house; I ran there and gave a still alarm; came back with the engine; the door was bursted open, and there was no flame of any kind in there; it seemed to be a smouldering fire.

Q. Where was the fire?

A. Right opposite 51st street.

Q. What part of the store was the fire in?

A. When I went into the store I noticed it all over the store.

Q. You did not see any flames?

A. No sir; smoke.

Q. You say the goods were on fire all over the store?

A. They were smouldering.

0078

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Q. From all parts of the store?

A. Yes sir.

Q. Did you smell any kerosine?

A. No sir.

Q. Did you see any particular smoke in one part of the store more than another?

A. No sir.

Q. You did not investigate to find out where the fire was?

A. No sir.

Q. After the fire was put out did you investigate at all?

A. No sir.

Q. Where did you see this smoke issuing from--from different parts of the store or from any one corner, or from two corners?

A. When I went in the smoke was coming from the rear and the front.

Q. Are you sure it was coming from goods in the front of the store?

A. When I went in the following day I seen in the rear where goods were burned as well as in the front.



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W.H. Farrell, fireman, sworn:

Examined by the Foreman:

Q. Tell the Grand Jury what you know about this case of arson?

A. I was there at the fire, and my captain ordered me to get the axe and break the front door open; <sup>the hose</sup> I went into the <sup>Event</sup> hallway and into the rear, and into the front, and I told them to shut off when I got in the front door; I moved the goods and put them on the counter and left them there until the water was shut off altogether.

Q. Did you smell any kerosine?

A. No sir.

Q. Did you see any fire in the rear of the store?

A. It may have been; I did not go back.

Q. You say the hose went through the hall and through the back door?

A. Yes sir.

Q. Was there any water thrown on the back part of the store?

A. Yes sir.

Q. And in the front of the store?

A. Yes sir.

Q. When you broke in the door was the store full



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of smoke?

A. Yes sir.

Q. It was pretty hard to distinguish anything?

A. Yes sir; I had to break the glass to let the smoke out.

Q. You saw the fire?

A. Yes, on the edges.

Q. Your companions went to the back?

A. Yes sir.

Q. You heard them playing there?

A. Yes sir.

Q. You could not say whether there was any fire or not?

A. No sir.

Ellena Kern sworn:

Q. Tell the Grand Jury what you know about this case?

A. I was down at the door from eleven o'clock to a quarter after eleven; and as I went up stairs I smelled a strong odor of kerosine and saw a little smoke in the hall, and saw them moving about from the front door and side door, and one was standing around watching.

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Q. Which one was moving about?

A. The stout one.

Q. Was the other partner outside?

A. The other was standing at the door.

Q. What time was this?

A. A quarter to eleven o'clock.

Q. Do you live in this house?

A. Yes sir.

Q. Do you know these parties?

A. Just know them from sight.

Q. Did you ever have any words with them?

A. No sir.

Q. Which floor do you live on?

A. The third floor.

Q. What time were you called afterwards?

A. I can not exactly tell that; mostly twelve o'clock I think.

Q. What time do they ordinarily leave the store?

A. Generally after 11; sometimes after 10.

Q. What time do they close their store?

A. Half past ten; sometimes ten o'clock.

Q. Are they there after half past ten?

A. No sir.

0082

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Q. You never saw them there before at half past ten?

A. No sir.

J.H.Kern sworn:

Examined by the Foreman:

Q. Please tell the Grand Jury what you know about this case of arson?

A. I own the store next from where the fire was; at half past eleven o'clock on Saturday night a boy called and told me there was fire in the store; and I came out on the side walk and everything was laid out; I went up stairs; I lived in the same house and I came down again and everything was dark and in a little while after and saw the store lit up again, and the shades were all down.

Q. What time was this?

A. About half past eleven o'clock; it looked very queer to me; generally when I close up the store any other night there was one gas jet in the store and I could see through the store.

Q. They always left the gas jet burning?

A. Every night.

Q. Did you see any of these men around that night?

A. Yes sir; about ten minutes after eleven o'clock.

0083

11.

It was very warm and I went out, and I happened to pass the dryggods store and seen the smaller man of the party moving around.

Q. Were they friends of yours?

A. No sir; I never knew them before.

Q. You are in business next door?

A. Yes sir.

Q. What business are you in?

A. Saloon.

Q. You never had any trouble with them?

A. No sir.

Q. What time do they close up generally?

A. About half past ten.

Q. Did you ever see them around there before after half past ten?

A. Once in a while.

Q. Was it usual to see them round about eleven o'clock?

A. Not as I know; some times I close up later than other times..

Q. You say you went up stairs as soon as you found smoke; did you smell kerosine?

A. There was a kind of smell.

Q. Do you think it was kerosine?

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A. I think it was.

Q. You say that every other night those shades were down and one light left burning?

A. Yes sir.

Q. This night the shades were down?

A. Yes sir.

Q. What night was this?

A. Saturday night.

Q. Were the shades generally up on Saturday night?

A. Yes sir.

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Jerome Brady Stenographer.  
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0085

*John H. Jany*

THE PEOPLE OF THE STATE OF  
NEW YORK

against

*Edward Sandowich*

+

*Philip Kaplan*

*Stenographer's Minutes*

JOHN H. FELLOWS,

DISTRICT ATTORNEY,

No. 32 CHAMBERS STREET,  
NEW YORK CITY.

0086

Grand Jury.

Copy.  
The People

vs.  
Simeon Sandowich  
And Philip Caplan.

James Mitchell sworn:

Examined by the Foreman:

Q. Tell the Grand Jury what the facts are in this case?

A. The case occurred on 3rd Avenue the 16th of February last. The fire alarm was given about 11--37; the parties who kept the premises stated in their affidavits made before me that they left the premises between nine and ten o'clock. There are two witnesses who swear to having seen them in the premises as late as 11 o'clock, and one five minutes after eleven o'clock; the fire broke out in two distinct places, one point about ten feet back from the window behind the stove, the other in the rear of the stove between shelving; the place was hermetically sealed and there was no ventilation so that the fire smouldered and did not burn rapidly, and it is not considered possible the fire could spread from one



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part of the store to the other. Kerosine was found among some of the goods; I myself found it there; I perceived that some of the goods were saturated with kerosine. The parties had the same stock usually found in second or third class stores. The facts were so suspicious that I continued my investigation for some time. I should say the fire did not burn five minutes from the time the alarm was given, and then it smouldered; they afterwards put in a claim for \$3,100 worth of goods of which no vestige could be found, and some \$700 worth of goods injured. Since then they have reduced their claim and put in a sworn statement for \$750 and I think that is pretty nearly represents what was in the store at the time.

Q. For the whole stock or the amount of damage?

A. The amount of damage, because all the stock was more or less damaged.

Q. What do you consider the value of the entire stock in the store?

A. They place it at some \$740 on goods were found in the store.

Q. The only indication you have of these parties setting fire to the premises is from the discovery of kerosine in the goods?



0088

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A. And two distinct fires in the store, and the fact that those people claimed to have left between nine and ten o'clock, and that they were seen as late as eleven o'clock there.

Q. That is all the information you have?

A. That is all.

Q. You say their first claim was how much?

A. \$3,100.

Q. And the second?

A. \$747 damages.

Q. That would make how much?

A. \$3847 worth of goods.

Q. You found in the place goods at a fair valuation worth only about \$700 or \$800?

A. According to their own valuation.

Q. Then the claim for \$3,100 you consider a false claim?

A. Yes sir.

Q. Have you any reason to suppose that these people done a paying business?

A. They don't claim to have done much business from the store; they done a pedling business. They owed at the time of the fire \$1600, and they had a bal-

0089

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ance in bank of about \$250; they say there was a good deal due to them, but I cannot get any statement from as to who they done their business with.

Q. There was no possibility of any amount of goods being burned?

A. No sir; they claim they put in \$700 worth of goods when they went to the store, and they have given me since goods they purchased amounting to some \$2,100, \$2200, if their statement be true. But from the fact that there were only \$750 worth of goods found in the store, and that the fire was of very short duration, and destroyed little if any of the goods; and from the fact that they have a sworn loss of \$750 I think you can safely assume they never put in \$3,100 originally.

Q. Did you make any enquiries into their character?

A. I did; and as far as I could ascertain anything the parties with whom they dealt spoke well of them. Of course I have found in my experience that parties with whom they deal are apt to speak well of them.

Officer George H. Murray sworn:

Examined by the Foreman:

Q. Please tell the Grand Jury what you know about this case of arson?

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A. I was patrolling my post that night, the 18th of February; my tour of duty is from six o'clock to twelve; about twenty five minutes past 11, I guess, as near as I can judge, I seen a smoke issuing out over the fan light. It seemed as if the pipe had been disconnected from the stove; there was no flame. I tried the front and rear doors and both were locked; I tried to force the front and rear door but could not. Then I rapped the tenants up; it is a double flat, and hollered "fire!" up stairs, and then started for the engine house; I ran there and gave a still alarm; came back with the engine; the door was bursted open, and there was no flame of any kind in there; it seemed to be a smouldering fire.

Q. Where was the fire?

A. Right opposite 51st street.

Q. What part of the store was the fire in?

A. When I went into the store I noticed it all over the store.

Q. You did not see any flames?

A. No sir; smoke.

Q. You say the goods were on fire all over the store?

A. They were smouldering.

0091

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Q. From all parts of the store?

A. Yes sir.

Q. Did you smell any kerosine?

A. No sir.

Q. Did you see any particular smoke in one part of the store more than another?

A. No sir.

Q. You did not investigate to find out where the fire was?

A. No sir.

Q. After the fire was put out did you investigate at all?

A. No sir.

Q. Where did you see this smoke issuing from--from different parts of the store or from any one corner, or from two corners?

A. When I went in the smoke was coming from the rear and the front.

Q. Are you sure it was coming from goods in the front of the store?

A. When I went in the following day I seen in the rear where goods were burned as well as in the front.



0092

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W.H. Farrell, fireman, sworn:

Examined by the Foreman:

Q. Tell the Grand Jury what you know about this case of arson?

A. I was there at the fire, and my captain ordered me to get the axe and break the front door open; I went into the halway and into the rear, and into the front, and I told them to shut off when I got in the front door; I moved the goods and put them on the counter and left them there until the water was shut off altogether.

Q. Did you smell any kerosine?

A. No sir.

Q. Did you see any fire in the rear of the store?

A. It may have been; I did not go back.

Q. You say the hose went through the hall and through the back door?

A. Yes sir.

Q. Was there any water thrown on the back part of the store?

A. Yes sir.

Q. And in the front of the store?

A. Yes sir.

Q. When you broke in the door was the store full

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of smoke?

A. Yes sir.

Q. It was pretty hard to distinguish anything?

A. Yes sir; I had to break the glass to let the smoke out.

Q. You saw the fire?

A. Yes, on the edges.

Q. Your companions went to the back?

A. Yes sir.

Q. You heard them playing there?

A. Yes sir.

Q. You could not say whether there was any fire or not?

A. No sir.

Ellena Kern sworn:

Q. Tell the Grand Jury what you know about this case?

A. I was down at the door from eleven o'clock to a quarter after eleven; and as I went up stairs I smelled a strong odor of kerosine and saw a little smoke in the hall, and saw them moving about from the front door and side door, and one was standing around watching.

0094

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Q. Which one was moving about?

A. The stout one.

Q. Was the other partner outside?

A. The other was standing at the door.

Q. What time was this?

A. A quarter to eleven o'clock.

Q. Do you live in this house?

A. Yes sir.

Q. Do you know these parties?

A. Just know them from sight.

Q. Did you ever have any words with them?

A. No sir.

Q. Which floor do you live on?

A. The third floor.

Q. What time were you called afterwards?

A. I can not exactly tell that; mostly twelve o'clock I think.

Q. What time do they ordinarily leave the store?

A. Generally after 11; sometimes after 10.

Q. What time do they close their store?

A. Half past ten; sometimes ten o'clock.

Q. Are they there after half past ten?

A. No sir.

0095

10.

Q. You never saw them there before at half past ten?

A. No sir.

J.H. Kern sworn:

Examined by the Foreman:

Q. Please tell the Grand Jury what you know about this case of arson?

A. I own the store next from where the fire was; at half past eleven o'clock on Saturday night a boy called and told me there was fire in the store; and I came out on the side walk and everything was laid out;

I went up stairs; I lived in the same house and I came down again and everything was dark and in a little while after and saw the store lit up again, and the shades were all down.

Q. What time was this?

A. About half past eleven o'clock; it looked very queer to me; generally when I close up the store any other night there was one gas jet in the store and I could see through the store.

Q. They always left the gas jet burning?

A. Every night.

Q. Did you see any of these men around that night?

A. Yes sir; about ten minutes after eleven o'clock.



0096

11.

It was very warm and I went out, and I happened to pass the drygoods store and seen the smaller man of the party moving around.

Q. Were they friends of yours?

A. No sir; I never knew them before.

Q. You are in business next door?

A. Yes sir.

Q. What business are you in?

A. Saloon.

Q. You never had any trouble with them?

A. No sir.

Q. What time do they close up generally?

A. About half past ten.

Q. Did you ever see them around there before after half past ten?

A. Once in a while.

Q. Was it usual to see them round about eleven o'clock?

A. Not as I know; some times I close up later than other times.

Q. You say you went up stairs as soon as you found smoke; did you smell kerosine?

A. There was a kind of smell.

Q. Do you think it was kerosine?

0097

12.

A. I think it was.

Q. You say that every other night those shades were down and one light left burning?

A. Yes sir.

Q. This night the shades were down?

A. Yes sir.

Q. What night was this?

A. Saturday night.

Q. Were the shades generally up on Saturday night?

A. Yes sir.

-----  
Jerome Brady Stenographer.  
-----

0098

*Grand Jury.*

THE PEOPLE OF THE STATE OF  
NEW YORK,

against

*Simon Standworth*

*vs  
Philip Kaplan*

*Stenographers Minutes*

JOHN R. FELLOWS,

DISTRICT ATTORNEY,

No. 32 CHAMBERS STREET,  
NEW YORK CITY.

0099

COURT OF GENERAL SESSIONS -Part III.

The People of the State of New York,  
against

PHILIP CAPLAN, impleaded with Simon  
Sandowitch.

Before, Hon.

Henry A. Gilder-  
sleeve, and a Jury

Indictment filed March 29th 1889.

Indicted for Arson in the 1st degree.

New York, May 27th 1889.

A p p e a r a n c e s :

For the People, Assistant District Attorney A. H. H. Daw-  
sson.

For the Defendant, Mr. Ambrose H. Purdy .

The jurors were examined and sworn.

Mr. DAWSON opened the case for the People.



0100

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GEORGE H. MURRAY, a witness for the People, being duly sworn,  
testified as follows:-

Direct Examination by Mr. DAWSON:-

Q Do you belong to the Police force of the city of New York?

A Yes sir .

Q Where were you on the 16th of February last ?

A On post .

Q At what hour ?

A Why, from six to twelve is my tour of duty .

Q Between the hours of six and twelve, while on your post  
did you discover a fire ?

A Yes sir .

Q Do you know the number ?

A 2908 Third Avenue .

Q In the city of New York ?

A Yes sir .

Q On the 16th of February last ?

A Yes sir .

Q What did you do ?

A Why, I rapped at the front door, and I went to the rear,  
and I could not get no response in either place, and I rap-  
ped for the tenants, and then I started for the engine

0101

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house and notified them there .

Q What hour was this ?

A I should judge it was twenty five minutes of twelve .

Q Why do you say you should judge; why do you judge that ?

A Well, because I did not have the time with me; I was going to my relieving point to be relieved at twelve o'clock.

Q When did you last notice the time that night ?

A At the engine house .

Q How long before that ?

A I did not notice it any place before that .

Q How long was it before the time of which you speak at the engine house ?

A About five minutes, I guess, or seven minutes .

Q What time was it when you noticed it at the engine house?

A About twenty three minutes of twelve; it was between a quarter and twenty minutes; sometime about that; I aiant sure .

Q Your reason for knowing about what time it was, is that you were to get off at twelve o'clock ?

A Yes sir .

Q You saw how near it was for the time you had to leave ?

0102

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A At 56th Street, I noticed the time; it was about twenty five minutes to twelve when I was walking to the relieving point .

Q How long did you have to walk ? A. 50th Street .

Q How long was it after that that you gave the alarm. You were walking down the street; how long was it after that that you gave the alarm; how many minutes ?

A I should judge about eight minutes .

(No cross Examination)

0103

5

HUGH KITTSON, a witness called on behalf of the People, being  
duly sworn, testified as follows:-

Direct Examination by Mr. DAWSON:

Q Do you belong to the Fire Department of New York ?

A Yes sir .

Q Where were you on the 16th of February last, at 10 o'clock?

A In the engine house on Third Avenue, near 147th Street .

Q Did you receive a notice of an alarm that night ?

A Yes sir .

Q Where ?

A In the Engine House; from Officer Murray of the 33rd pre-  
cinct.

Q Where was the fire located ?

A 2908 Third Avenue .

Q Did you go there ?

A Yes sir .

Q Tell all that happened after you got there ?

A On arriving at the fire, I proceeded to examine the  
building, and opened the rear door of the hall, the rear  
of the hall and found the fire was located in the front  
of the store, gave it one dash of the pipe, opened the front  
backed  
and ~~put~~ the pipe out of the front door . I opened the



0104

6

front door and found the fire burning in two different places; a red hot stove was six feet away from the front door, located in a recess in the counter; ~~and the fire was~~ a recess cut in the counter, and fire was burning in the rear of the store, about twenty feet away from there; one dash of the pipe extinguished it all; it didn't ~~last~~ occupy over two minutes.

Q A dash of what pipe?

A Engine 41.

Q You directed it?

A Yes sir.

Q You found the fire commencing to burn in two different places?

A Yes sir; in two different places.

Q How far apart?

A Well, from 18 to 20 feet I should judge.

Q Locate them?

A One was about six feet from the front door and right in the rear of the stove; and the other was in the rear of the store; in the rear shelving.

Q How far from where the first fire started?

A I should judge from fifteen to twenty feet; I was only three minutes there.

0105

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Q Please tell the jury how you could decide, as you have in your mind, that these two **blazes** were distinct from each other ?

A By seeing the blazes

Q Was there anything to make one of the fires the result of the other ?

A No sir; not in my estimation .

Q Explain why ?

A They were too far apart .

Q And there was no fuse or anything running between them ?

A No sir; but the counter running full length .

Q What was there where the first fire started to ignite ?

A There was a lot of cotton goods, stored on the shelving, and some boxes with stockings and gloves and other hosiery in them .

Q Could the fire have started there from the stove ?

A Not very well .

The COURT: That will hardly do .

Q Explain to the jury , if you can, how that fire started ?

A Well, I didn't come to any conclusion how it started for I wasn't long enough in the building to examine it; it was not probable that it started from an overheated stove.

The COURT: Strike that out . This witness must

0106

8

describe the exact condition of things as he found them and never mind about his opinion .

The WITNESS: The stove was red hot at the time.

Q How much of it was red hot ?

A Up to the top of the stove .

Q Where was the other fire ?

A The other fire was in the rear of the store .

Q How far from there ?

A Between fifteen and twenty feet; I could not exactly tell the distance .

Q Did you see when you went in there any cause for the start of that fire ?

A No sir .

Q Now did you smell anything when you went in there unusual ?

A I did not, for I had a bad cold and I could not smell.

Q What time of night was this ?

A 11.37.

Q How do you know that ?

A By the stop clock we have.

Q When you are called to a fire like that, under such circumstances you examine your time ?

A Yes sir .

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Q Did you do it then ?

A Yes sir; we always do .

Q And you are certain that was the time ?

A Yes sir .

Q 11.37?

A Yes sir .

Q That is the hour of the alarm ?

A The hour that we received the still alarm.

Q And you got to the store how soon afterwards ?

A Inside of two minutes .

Q Now the next fact I wish you would state distinctly to the jury is: how long did it take to put out that fire ?

A About three minutes altogether; one dash of the pipe extinguished it .

Q Now, between the two fires how many feet of shelving was there ?

A Well, I should judge between fifteen and eighteen feet .

Q Had that been touched by fire at all ?

A No sir .

Q Not at all ?

A No sir .

Q Those shelves were occupied by goods ?

A Yes sir; they were occupied by goods .



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Q And not injured in the slightest ?

A They did not seem to me, no sir; I wasn't long enough in the building ; as soon as the Chief arrived he took us out and sent the truck home .

Q As long as you were there, there was no indication of fire?

A No sir; no indication of fire .

Q How long after you went in did you come out ?

A I was in there for five minutes altogether .

Q Was there much excitement ?

A Well, considerable; in a tenement building .

Q ~~Used to~~ this thing ?

A Yes sir .

Did that prevent you from looking around and seeing this ?

A No sir . I had considerable to do after . The first thing I did after extinguishing the fire, I tried the gas to see if I could light it and I found the gas shut off; I found it was shut off at the meter in the cellar . I turned the meter on, came up and lit the gas .

Q You let the meter on by going down stairs ?

A Yes sir; I asked the proprietor where the meter was located and he told me, and I went down, turned it on, came up and lit the gas .

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Q Then it was you looked at the shelves ?

A Yes sir .

CROSS EXAMINATION by Mr. PURDY:

Q Who went with you to answer the still alarm ?

A The whole company .

Q Who went into the building first ?

A I was the first entered the building .

Q Did anybody go in with you ?

A Yes sir; Fireman Trainor .

Q Is he in Court ?

A No sir .

Q He is not here ?

A No sir .

Q Any other fireman except you two ?

A Yes sir; Fireman Farrell went in from the front, I came out and took the pipe out in front, I ordered him to break the door in and he went in with me in front .

Q Is he here ?

A No sir .

Q You three ?

A Yes sir .

Q First you went in the back door ?

A Yes sir .

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Q Did you get yourself in with a jimmy ?

A No sir; I bursted the door it .

Q What was the first thing you saw when you bursted the door in ?

A The first thing I saw was the flame in the front, in the rear of the stove .

Q And in the rear of the stove ?

A Yes sir .

Q What flame did you go to first and put the pipe on ?

A That was the one; I opened the pipe and gave it a dash-  
that was the front one .

Q What was burning ?

A A lot of light goods that were on the shelving, some boxes.

Q There were a lot of light goods on the shelving ?

A Yes sir . some in boxes and some in rolls .

Q You gave that flame a dash with the pipe and then turned for the other one ?

A Turned right behind the door and found a burning there .

Q What was burning there ?

A I dont know what kind of goods; it was some kind of goods;  
I gave it a slight dash of the pipe, backed out and burst-  
ed in the front door .

Q It didn't take you two minutes to put it out  $\frac{2}{4}$ ?

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A It didn't take one minute .

Q What were these goods ?

A I am not an expert in goods; I dont know what the quality of them were .

Q Both fires that you saw were goods burning ?

A Yes sir; in both .

Q And some of the goods were in boxes and others in rolls ?

A Yes sir ; suspenders and such things like that .

Q And you just put on the hose and gave it one dash ?

A Yes sir; probably not a minute altogether, one dash of the pipe shut it off .

Q The stove wasn't burning anything ?

A Messarr..

Q The stove was red hot ?

A Yes sir .

Q Going on in its usual way ?

A Yes sir; there was a recess about as wide as this platform where the stove was set in between two counters .

Q Were these goods that were burning up on the shelves or on the floor ?

A On the shelves .

Q Did you pull out the goods ?

A A portion of them; yes sir .



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Q And those you put water on and put them out ?

A Yes sir; I put one dash of the pipe and the Hook and Ladder came in and done the work afterwards .

Mr. PURDY: I call your Honor's attention to the evidence of this fireman; he says that what was burning there were goods, cotton goods, and some of them were burning on the shelves. That is all he saw .

MATTHIAS BARRINGER, a witness called on behalf of the People, being duly sworn, testified as follows:-

Direct Examination by Mr. DAWSON:

Q What is your employment ?

A Fireman .

Q You belong to the fire Department of New York ? .

A Yes sir .

Q Where were you on the 16th of February last ?

A At the truck house .

Q Were you called to a fire that night ?

A Yes sir .

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Q About what hour ?

A 11.43.

Q Where ?

A 2908 Third Avenue .

Q About what time did you reach the premises on fire ?

A I must have got there <sup>w</sup>about three or four minutes ; it took about that time to go from 143rd Street .

Q Describe to the jury the condition in which you found things ?

A When we got there the foreman gave orders for some to go in front and others in the rear; and two men into the hallway and go in the rear door- I was one of them .

Q Who was the other ?

A The other one was Dowling, Michael Dowling .

Q Not the last witness ?

A No sir; so we got there and did not see any fire whatever but plenty of smoke . Eventually we got in one corner and pulled down the shelving, in the north east part of the store and found some cotton comforters up there with fire on the ends of them and they were handed to me by Fireman Sloan and I put them on the floor in the water and put them out .

Q How far from the floor were they ?

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A eight feet, I suppose, the top shelf .

Q State exactly the condition in which you found them ?

A That is where they were ?

Q ~~Were they blazing?~~ Were they blazing ?

A No sir; these were cotton goods or comforters and they were there and the fire had been in there , and probably the water kind of got in there.

Q Did you smell any kerosene ?

A No sir .

Q How much of the shelving was destroyed by fire ?

A We too all the east side down, it was all completely black where it had been burned, put it out by water, I handled the shelves myself; I stood in the corner to see what had been burned .

Q Any of it destroyed by fire ?

A no more than blackened over .

Q None of it destroyed ?

A Not completely .

Q As to the goods, how much goods were destroyed ?

A I could not see that part of it; I know there was three of them comforters-two of them was afire and some little different goods that was there, which you could not tell; we dont inspect as a general thing .

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Q Was anything ototally destroyed ?

A ~~I did~~ not see anything .

Q Was there any sign of anything that had been totallly destroyed ?

A No sir .

(the last answer was stricken out)

Q When you first went in did you find any of the shelving down ?

A Yes, sir.

Q You pulled it down yourself ?

A Fireman Sloane and myself; fireman Sloane pulled it down and handed it to me .

CROSS EXAMINATION BY MR. PURDY:

Q These shelves were sliding shelves ?

A No, sir; fastened to the walls.

Q These goods were on them ?

A Yes, sir

Q Those comforters were smouldering ?

A Yes, sir.

Q That is all you saw ?

A Yes, sir; there was plenty of water on the floor and I stamped it out and overhauled it to see whether there was



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any more fire in there.

Q How long were you in the place ?

A About five or ten minutes, I suppose.

Q You didn't smell any kerosene ?

A No, sir.

Q Did you have a cold that night ?

A I generally have; I don't know whether I had it that night or not.

Q The last witness said he had a cold?

A I most likely had; but I wouldn't swear positively.

Q You don't know whether you had or not?

A No, sir.

BY MR. DAWSON:

Q Was the fire which left this mark on the shelves on the lower or upper part ?

A All the way up, about three rows were all blackened where they had been scorched, I suppose.

Q The lower side was blackened ?

A Yes, sir.

By the Court:

Q The water had been turned on before you got there ?

A Yes, sir; they got a "still" for it and we got a regular

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alarm; it takes some time for us to get there; 41's  
were there before we were.

PETER SLOAN, a witness called on behalf of the people, being  
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DAWSON:

Q You belong to the Fire Department ?

A Yes, sir.

Q Did you hear the evidence of the last witness ?

A Yes, sir.

Q Were you present at the fire on that night of the 16th.  
of February ?

A Yes, sir.

Q State all you know about it ?

A Well, when we got in there the fire was partly out.

Q What time did you get in there ?

A We received the alarm at 11:43; we got it by telegraph.

Q Where did you receive that alarm at ?

A No. 589 East 143rd. St. at the truck house.

Q You started immediately for the spot ?

A Yes, sir.

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Q How far was it ?

A From 143rd. St. to between 151st. and 152nd. St. where the building is located.

Q How long did it take you to get there ?

A About four minutes, I suppose.

Q When you went there you found what ?

A Forty-one engine had charge of the fire and had the fire almost out. We went inside and overhauled the goods, looking for any fire that might be in the goods.

Q Did you pull down the shelves ?

A Yes sir; something about three row of shelves.

Q What part of the building was that in ?

A Just in the side, behind the counter, and at the end of the store.

Q Did you find anything totally destroyed there ?

A No, sir; I couldn't say.

Q Or any evidence of anything totally destroyed ?

A No, sir.

Q Did you see any connection between the two fires. How many fires were started there that night ?

A One fire was burning behind the stove and another in the rear part of the building.

Q Did you see any connection between those two ?

A No, sir.

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CROSS EXAMINATION BY MR. PURDY:

Q Did you see the fires yourself ?

A Yes, sir.

Q I thought you said you didn't put them out ?

A So they were, put out, but part of the stuff was burning.

Q Part of those goods ?

A Yes, sir.

Q You pulled down some of the shelves?

A Yes, sir; that was in the rear part of the store.

Q And the remains of where those goods had been burning was still smouldering ?

A Part of the goods were partly burned, they were only partly burned.

Q Did you smell any kerosene ?

A No, sir; I did not.

Q How long were you in there ?

A I don't know how long; I suppose ten or fifteen minutes while doing the work.

Q While handling these goods and putting out the fire ?

A Yes, sir.

Q Did you have a cold that evening ?

A I don't think I did; I don't know.



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BY MR. DAWSON:

Q Was there any excitement there ?

A Nothing but what is regular around a fire anywhere.

Q There is such a thing as a regular excitement around a fire ?

A Yes, sir; among the people around.

Q Was the room full of smoke ?

A Yes, sir.

Q Dense smoke ?

A Yes, sir.

Q As a matter of experience with yourself, do you smell as well in smoke as out of it ?

A Well, I don't think you can.

By the Court:

Q Were you excited ?

A No, sir.

Q Your sense of smell was ordinarily acute ?

A Yes, sir.

By Mr. Dawson:

Q Fire or smoke always produces a smell of its own ?

A Fire will.

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By Mr. Purdy:

Q Have you been at a fire where you smelled kerosene ?

A No, sir; not that I know of.

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

DIRECT EXAMINATION BY MR. DAWSON:

Q What is your business ?

A I belong to the Fire Patrol.

Q Where was you on the 16th. of February last about 10 or 11  
at night ?

A On duty in the Patrol House at No. 130 East 90th. St. be-  
tween Lexington and Fourth Avenues.

Q Did you receive notice of a fire ?

A About a quarter after 12 o'clock.

Q Did you go there ?

A Yes, sir ; I was sent up.

Q Did you take charge of the premises ?

A Yes, sir .

Q How long were you there ?

A I was there for 24 days and seven hours.

Q How long after you got there was it that you were in sole

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possession of the premises ?

A At about 1 o'clock in the morning.

Q Who was in charge up to the time that you were put there.

A Officer Clark of the 33rd. Precinct.

Q What day was this ?

A The 17th.

Q Did you smell any kerosene there ?

A Yes, sir; I did.

Q You know kerosene when you smell it ?

A Yes, sir; on some shirts.

Q Where were the shirts ?

A Lying on the counter.

Q In that store ?

A Yes, sir.

Q Did you make yourself certain about it ?

A Yes, sir.

Q Why and how ?

A By smelling it over three or four times to be positive of it, and Fire Marshal McGrath came on Sunday morning and he smelled it too.

Q Did you go on and examine the goods then ?

A Yes, sir.

Q Did he discover whether they had been saturated with kerosene or not ?

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A Only the shirts.

Q How many shirts ?

A About eight or ten of them.

BY The Court: Have you got the shirts here ?

Mr. Dawson: No, sir.

Q Where did you find them when you first discovered them?

A On the floor.

Q Down on the floor ?

A yes, sir.

Q How late did you stay there; you say you remained for 24 days ?

A Yes, sir; and seven hours.

By a Juror:

Q What was the texture of the shirts, was it woollen or cotton; were they outside shirts ?

A White shirts, muslin shirts.

Q Muslin ?

A yes, sir.

By Mr. Dawson:

Q How long after you first came to those premises did you discover the smell of kerosene ?

A I discovered it in the morning.

Q When ?



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A I guess about 9 or 10 o'clock, in the morning.

Q About nine hours after ?

A Yes, sir.

CROSS EXAMINATION BY MR. PURDY:

Q You got there at what time ?

A One o'clock in the morning.

Q You discovered those shirts at nine o'clock in the morning ?

A Yes, sir.

Q That was the time you smelled them ?

A Yes, sir.

Q Up to that time you hadn't smelled anything ?

A No, sir.

Q You hadn't a cold ?

A I had a slight cold.

By Mr. Dawson:

Q Had you seen anybody going around there with kerosene before that time ?

A No, sir.

Q Was anybody admitted to those premises to put kerosene on them ?

A No, sir.

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By Mr. Purdy:

Q Where did you say you found the shirts ?

A On the floor.

Q Didn't you tell us in the first instance that you found them on the counter ? Which is correct; you said first that those shirts were on the counter and afterwards that they were lying on the floor, which is correct ?

A I found them on the floor.

Q What did you say you found them on the counter for ?

A I didn't say I found them on the counter.

Q Are you sure you didn't ?

A Yes, sir.

Q Well, at anyrate, were they under anything lying on the floor ?

A Lying in a heap on the floor.

Q Mussed up ?

A Yes, sir.

Q All mussed up together ?

A Yes, sir.

Q Newshirts, were they ?

A Yes, sir; white shirts.

Q What part of the floor ?

A Lying in front of the counter.

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Q And you immediately took them up and smelled them ?

A I took them up and placed them on the counter, making a passageway through the store.

Q Then it was that you smelled them ?

A Yes, sir.

Q The next morning ?

A yes, sir; at 9 o'clock.

Q You hadn't smelled any kerosene up to that time ?

A No, sir.

By Mr. Dawson:

Q Why did you finally notice the kerosene ?

A When I was picking up the shirts to make a passageway through the store.

~~By Mr. Dawson:~~

Q And not looking for kerosene ?

A No, sir.

Q And not suspecting anything of the kind ?

A No, sir.

Mr. Purdy: I object to this.

Mr. Dawson: I have a right to know the real reason why he finally was impressed with the idea of there being kerosene; if he was looking for it he might be expected to take a wrong impression, but if he wasn't looking for it ---

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Q If you did state in your original statement that you first found the shirts on the counter, did you mean to do it?

A I found them on the floor.

Q Well, but did you mean to say that you found them on the counter?

A After the fire I left them there; I put them there myself.

Q Before that did you see them on the counter?

A No, sir.

Q They were not on the counter until you put them there?

A No, sir.

By Mr. Purdy:

Q Were these shirts burned in any way?

A Yes, sir.

Q You are a fireman?

A Yes, sir; on the Fire Patrol.

Q The Insurance patrol?

A Yes, sir.

Q You are in the interest of the insurance companies then?

A Yes, sir.

Q You are not a regular fireman, you belong to the fire patrol?



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A Yes sir.

Q You are paid by the insurance companies ?

A Yes, sir.

Q How were you lighted when you went in there that night ?

A I had gas.

Q Who was with you there that night ?

A I was there alone; I relieved officer Clark of the 33rd.  
Precinct.

Q You had the gas lighted ?

A Yes, sir.

By Mr. Dawson:

Q When Clark left and you went on, did any other human being come into that room at all ?

A No, sir.

Q Do you carry a lantern ?

A Yes, sir.

Q What is that lantern filled with ?

A Filled with kerosene, but I didn't have it up there.

Q You didn't have it there ?

A No, sir.

Q Did the other fire patrol have any lanterns ?

A There was no other fire patrol there.

Q Did the firemen have lanterns ?

A I couldn't say; they were gone.

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By a Juror:

Q Was the place dark when you came in there ?

A They had the gas burning.

Q What use had you for a lantern ?

A I had no use for a lantern.

By Mr. Purdy:

Q Don't you always carry a lantern with you ?

A I didn't have one here.

ALVINA KERN, a witness called on behalf of the people, being  
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DAWSON:

Q Where do you reside ?

A 2908 Third Avenue.

Q How long have you resided there ?

A About two years.

Q Were you there on the 16th. of last February ?

A Yes, sir.

Q Did a fire occur there at that time ?

A Yes, sir.

Q Please state to the jury all you know about the commencement or beginning of that fire ?

A I was standing down at the doorway at 20 minutes after 11.

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Q You are a married lady ?

A Yes, sir.

Q You and your family occupied ~~those~~ those premises at that time ?

A Yes, sir; I was down at the doorway at 20 minutes of 11, and while at the doorway the stouter one of the two defendants went in and out of the rear door.

Q What hour was this ?

A Twenty minutes of 11.

Q Was it that man (pointing to the co-defendant Sandgowitch )

A Yes, sir.

Q You know him ?

A I know him about while he lived there.

Q What is his name ?

A Sandgowitch.

Q Where did he pass ?

A Through the rear door, through the hall to the store door; from the rear to the front way to the store door; he done that several times.

Q He came in the rear door ?

A He went out of the rear door and passed through the hallway.

Q Is that a corner house ?

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A No, sir; he passed me by and then went in to the front way from the store door.

Q He went out the rear door of the store ?

A Yes, sir.

Q Into what place ?

A Into his own store; this was in the back room; this door goes into the back rooms, and he came through the hallway and then went past me and then went in through the store door.

Q What did he come out of ?

A The back door.

Q Of what ?

A of his place.

Q Of his store ?

A Yes, sir; the room.

Q He came out of the back door of his store into the hall?

A yes, sir.

Q And he came along through the hall?

A Yes, sir.

Q And then he entered the front door of the store ?

A Yes, sir!

Q Upon the street ?

A Yes, sir; upon the street.

Q Where were you standing ?



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A In the doorway; at the hall door!

Q On the street ?

A yes, sir, on the street; in the doorway.

Q Yousaw him come out of the back door of his store ?

A yes, sir.

Q And walk into the street ?

A Yes, sir.

Q And then go into the front door of his store ?

A Yes, sir.

Q From the street ?

A yes, sir.

Q About what time ?

A This was 20 minutes of 11; he passed by there several times while I was standing there.

Q Was anybody in the store ?

A The other gentleman (meaning the defendant) was standing in front of the store door outside.

Q Did they have any clerks ?

A No, sir.

Q Nobody but themselves ?

A No, sir.

Q Nobody as in the store ?

A Not that I know of.

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Q This defendant was standing out in the street, in front of the store ?

A Yes, sir.

Q And he passed several times ?

A yes, sir.

Q And you say that as about what hour ?

A 20 minutes of eleven.

Q Did you see them leave ?

A No, sir.

By a Juror:

Q Did they live in the back of that store ?

A No, sir.

Q Did they have a room in the back ?

A No, sir.

By Mr. Dawson:

Q Did you smell any kerosene ?

A I did; a strong odor when I went upstairs.

Q You have smelled kerosene before and since ?

A yes, sir.

Q You know kerosene when you smell it ?

A yes, sir.

Q Before the fire broke out you smelled it ?

A Yes, sir.

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Q Had there been any smell of it before there ?

A No, sir; I didn't smell anything until I went up the stairs.

By the Court:

Q Was there any light in the store at this time ?

A Yes, sir.

Q The gas was burning ?

A Yes, sir.

By a Juror:

Q Have you been in that store some time ?

A No, sir.

Q You have never been in the store ?

A No, sir.

Q You don't know whether they were in the habit of using kerosene ?

A No, sir; I don't know anything about that.

CROSS EXAMINATION BY MR. PURDY:

Q You smelled the kerosene ?

A Yes, sir.

Q Clear through the wall ?

A Yes, sir.

Q You were standing out on the street ?

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A Yes, sir; on the street; in the hall door.

Q That is a vestibule door, isn't it?

A Yes sir.

Q And you stood out there?

A Yes, sir.

Q That is the entrance to the dwelling portion of the building?

A Yes, sir; I stood, not at the vestibule, but at the outside door, the street door.

Q And you saw this man coming through this hallway, running clear back here (indicating)?

A Yes, sir.

Q Was this hallway lighted with gas?

A Yes, sir.

Q It was lighted?

A Yes, sir.

Q Are you sure of that?

A Yes, sir.

Q Do you say that you could see from that place there, that door there clear through this hallway back to that door?

A Yes, sir.

Q Is there a closet back there?

A Yes, sir.



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Q It was a rainy night, was it not ?

A Yes, sir.

Q What were you doing standing out there ?

A I was looking on.

Q Looking on what ?

A The people passing by.

Q Looking at the passing by at 20 minutes of 11 ?

A Yes, sir.

Q You say that the other defendant, Mr. Caplan, was standing in front of the store ?

A Yes, sir.

Q He stood there ?

A Yes, sir.

Q And then you say you saw the other defendant, Sangowitch, come through this hall, come out of the door of his store, come through the hall and go in to the front door of his store ?

A Yes, sir.

Q And go around and come through again ?

A A few minutes later.

Q How many times ?

A About two times; it might have been three times.

Q You saw the other man standing in front ?

A Yes, sir.

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Q You smelled kerosene ?

A Yes, sir.

Q When did you first begin to smell kerosene ?

A When I went upstairs.

Q How far upstairs did you go ?

A Three flights, about the second flight .

Q You smelled it up there ?

A Yes, sir.

Q From this store to the second floor you smelled kerosene,  
you hadn't a cold in at night ?

A No.

Q You didn't smell it till you got upstairs ?

A Two flights of stairs, one flight, in the second hallway.

Q Who did you first talk with about this case ?

A To Mr. Fitzsimmons, the landlord.

Q Who else did you talk with about it ?

A That is all.

Q You have talked with other people about it, haven't you?

A Not unless the fire marshal came around.

Q You talked with him ?

A Yes, sir.

Q You gave your statement to him, did you not ?

A Yes, sir.

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By the Court:

Q Was the store open for business at this hour ?

A Yes, sir.

Q The lights were burning inside ?

A Yes, sir.

Q Do you know when the light went out there ?

A No, sir; the store was open when I went upstairs.

By Mr. Purdy:

Q You say this was what time ?

A Twenty minutes of 11.

Q How do you fix it then ?

A Because I just happened to look at my watch.

Q You did look at your watch ?

A Yes, sir; a lady friend of mine asked me the time.

Q Where did she come from ?

A From home.

Q Where was she then ?

A She passed by and went home;

Q She passed by and went home and you can't be mistaken but what it was 20 minutes of 11 ?

A Yes, sir.

By the Court:

Q At this time you went upstairs did you leave the defendant

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standing there on the sidewalk ?

A I was down at the door until 10 or 5 minutes after 11.

Q You stood there until 10 or 5 minutes after 11 ?

A Yes, sir.

Q Was he standing there all the while ?

A No, sir.

Q Where did he go from there ?

A In the store.

Q And the last you saw of the defendant that night was that?

A That was the last I seen of him, when he went in the store.

Q And the other defendant, Sangowitch, he had passed you two or three times ?

A Yes, sir.

Q Where did he go when you last saw him ?

A In the store.

By Mr. Purdy :

Q You waited out there until how long ?

A About 10 or 5 minutes after 11.

Q You stayed on the street till 10 or 5 minutes past 11 ?

A Yes, sir.

Q Then you went upstairs ?

A Yes, sir.



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Q And you looked at the watch and it was just 20 minutes of 11 ?

A Yes, sir.

Q When was it 20 minutes ?

A At 20 minutes of 11.

Q At what time, at the time you saw these people ?

A Yes, sir.

Q It was just 20 minutes of 11 at the time you saw this man come back ?

A Yes, sir.

Q You can't be mistaken ?

A No, sir.

Q Please look at this signature to that paper and say whether you signed and swore to that ?

A Yes, sir.

Q That is your signature ?

A Yes, sir.

Q And that statement was read over by the Fire Marshal to you ?

A Yes, sir.

Q And is correct ?

A Yes, sir.

Q It makes you swear that it was five minutes of eleven;

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now you say it was twenty minutes because you looked at the watch ,

A I was down at the door until 5 minutes of eleven.

Q And it was 20 minutes of 11 ?

A Yes, sir .

Q That is at the time you saw this man come out through the hallway and go in through there ?

A Yes, sir .

Q I will read from this statenent: "That, while standing at the door, she saw one of the occupants of the dry goods store, the stouter defendant of the two, enter the hallway from the rear room of the dry goods store, come forward to the street, and enter the front door of this store; that he did the same thing three different times; while she was standing there; that s he went upstairs to her room at five minutes to eleven o'clock". Now you say that, instead of that being so, that it was 20 minutes of eleven when you saw him coming in there and coming out of that hallwæ ?

A Yes, sir .

Q You looked at your watch ?

A Yes, sir .

Q You stayed there until ten minutes past eleven ?

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The Court: Yes.

Mr. Purdy: Here she swears that she went to her room at five minutes before 11 ? Which is correct

A I say that is true what I stated there.

Q Before the fire marshal ?

A Yes, sir.

By Mr. Dawson:

Q Why do you think the first statement is more apt to be accurate than the present one ?

A I might be mistaken as to the time.

Q And because it was then nearer to the time ?

A I was sure of it at the time.

Q Do you know these defendants ?

A No, sir.

Q You never had any business transactions with them at any time ?

A No, sir.

Q No intercourse with them whatever ?

A No, sir.

Q They didn't visit you ?

A No, sir.

Q You had no prejudice against them ?

A No, sir.

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Q You are sure that it was the stouter of the two men that you saw coming through ?

A Yes, sir .

By Mr. Dawson:

Q Can you make no discrimination between their faces?

A Yes, sir .

Q It was the other man ?

A Yes, sir; it was the other man, and this gentleman was standing in front of the door.

Q This is the stouter one ?

A No, the other is the stouter; I know their faces. That

Q gentleman, (Sangowitch), passed me by in the hallway and he (Caplan) was standing in front of the door.

Q You call Sangowitch the stouter one ?

A I know them by their faces.

Q Why did you say the stouter one if you knew them by their faces?

A He was stouter then.

By a Juror:

Q In what part of the house do you reside ?

A On the top floor.

Q How do you light your rooms, with gas ?

A No, sir; with a lamp.



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Q Do you know anything about the means by which the other occupants of the house light their rooms ?

A No, sir.

Q Is yours the only floor where kerosene is used ?

A I don't think so; I don't think there is any gas in the rest of the floors.

Q How is the hall lighted ?

A With gas.

Q And on the second floor ?

A Yes, sir; all the halls are.

By Mr. Purdy :

Q How many flights up do you reside ?

A Three flights of stairs.

OWEN FITZSIMMONS, a witness called on behalf of the people,  
being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DAWSON:

Q Where do you reside ?

A No. 2910 Third Avenue.

Q That is next door to 2908 ?

A Yes, sir.

Q Where were you between 10 and 11 o'clock at night on the

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16th. of February last ?

A I was in the store next to the fire.

Q Next to the fire ?

A Yes, sir.

Q In what ward is that ?

A The 23rd. Ward.

Q Now, state all that you know about the commencement of that fire ?

A All that I know is that bout a quarter past 11 o'clock I passed the window where the fire occurred and I saw the blinds of the window down, and the blinds also on the door, I couldn't see no further in the store.

Q The gas burning in the store ?

A I couldn't see anything, gas or anything.

By the Court:

Q The window blinds were down ?

A Yes, sir.

Q And the blinds to the door ?

A Yes, sir; I couldn't see a thing in the store at all.

I looked if there was anything to see; I wondered much to see the place closed up.

Q Have you been in the habit of passing that place every night ?

A Pretty nearly every night since they came there.

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By Mr. Dawson:

Q Have you been in the habit of watching these curtains ?

A They used to be up about 18 inches to 2 feet from the bottom, raised so that you could see in.

~~By Mr. Dawson:~~

Q The window shades ?

A Yes, sir.

Q You meant shades when you said blinds ?

A Shades or blinds, the same thing.

Q Linen ?

A Yes, sir.

Q Always before you have noticed that they were up ?

A Up always.

Q And the gas burning all along ?

A Before then the gas used to be pretty much burning, when they ~~gas~~ got the gas in, and until that night. I could not see nothing at all, the shades were all down.

Q How long after that did you hear the alarm ?

A About 20 minutes to 12 o'clock.

Q What hour did you pass ?

A At a quarter past eleven, about.

Q Did you see either of the defendants around then ?

A No, sir, not then; I just walked past and I didn't think anything was going to occur.

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Q Were you well acquainted with the defendants ?

A No, sir .

Q What were their habits as to going there Sunday mornings?

A I don't exactly know anything about their business at all.

Q What night was this, Saturday night ?

A Saturday night .

Q Did they come there the next morning ?

A No, sir .

Q This was on the 16th. of last February in the City of New York ?

A Yes, sir .

Q At No. 2908 Third Avenue ?

A Yes sir.

CROSS EXAMINATION BY MR. PURDY:

Q How long a lease of this store did they have ?

A None.

Q On what terms did you rent it to them ?

A \$25 a month.

Q From month to month ?

A Yes, sir.

Q You said you owned that store ?

A Yes, sir.



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Q You made a mistake when you said you owned it ?

A What store ?

Q This store ?

A I own the one next door to it.

Q I thought your wife owned it ?

A It is all the same.

Q Your wife owns the store ?

A Yes, sir.

Q You have charge of it ?

A yes, sir.

Q And you have charge of the whole building too ?

A Yes, sir, of the whole building.

Q And, do you rent the rooms to this last witness that was here ?

A Yes, sir.

Q You have talked with her about the case ?

A No, sir.

Q She says you have .

A Who says ?

Q She says so.

A No, sir.

Q She says she talked to you about the case ?

A No, sir.

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Q You supply your tenants with gas in the halls ?

A Yes, sir.

Q What time do you put that gas out ?

A At 10 o'clock.

Q Always at ten ?

A At half past eleven on Saturday nights.

Q Did you notice whether the gas was burning on this night or not ?

A I don't know.

Q What time did you put it out ?

A I can't say.

Q Ain't it your business to put it out ?

A Yes, sir.

Q Do you put it out by turning the meter off ?

Q I go to the top of the house and turn them all out.

Q Do you recollect anything about this night, about putting out the gas ?

A No, sir.

Q How is it you recollect perfectly that these shades were down ?

A Because I passed the remark that they were down.

Q You don't recollect whether you went in and put out the gas that night ?

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A No sir .

Q Dont you do it for the purpose of economy ?

A I do soe times and sonetimes I let . ----

Q You dont recollect whether you put it out at all or not ?

A Yes sir .

Q What time ?

A I cant say .

Q Do you recollect what time you went to bed ?

A I do .

Q What time ?

Q I went to bed at twenty minutes past eleven, or twenty five .

Q Had you already put out the gas ?

A Yes sir; they were all put out then .

Q You put them out at that time ?

A I can't say whether I put them out, or my son; my son sometimes puts them out .

Q This night you dont remember anything about ut ?

Nothing particularly .

Q What time was it you passed the store ?

A About a quarter past eleven o'clock .

Q You didn't see this young lady standing out in front ?

A If I did I would pass re marks any way .

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Q How do you fix the time as at a quarter past eleven when you passed there ?

A Well, I knowed when I was closing the store at 11 o'clock some customers came in and kept me fifteen minutes more.

Q You think it was about fifteen minutes past when you passed there ?

A Yes sir .

Q VThat young lady was a tenant of yours ?

A Yes sir .

By Mr. DAWSON:

Q You are not in the habit of getting up conversations with ladies at 11 o'clock at night --with your young tenants ?

A No sir; not as I know of .

JACOB H. KERN, a witness called on behalf of the People,  
being duly sworn, testified as follows:

Direct Examination by Mr. DAWSON:

Q Mrs. Kern who has just testified is your wife ?

A Yes sir .

Q Can you speak English ?

A I do .



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Q You reside at No. 2908 Third Avenue ?

A Yes sir; that is my residence .

Q You resided there on the 16th of February ?

A Yes sir .

Q And were you there lat at night ?

A I was in my store at No. 2910 .

Q That is next door ?

A Yes sir; that is next door .

Q How late were you in the store ?

A I was in the store until ten minu es of twelve o'clock .

Q Did you notice anything peculiar or uncommon at 2908 that night about that time ?

A I did not notice anything until a boy came in about twenty minutes after 11; opening my store door .

The COURT: Dont state what the boy said to you.

Q Did you see the defendants there that night ?

A I did .

Q How late ?

A Ten minutes to eleven .

Q How do you know it was ten minutes to eleven ?

A I was just after going out for a l ittle fresh air; it was smoky in my store and I looked in to see if they were doing any business .

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Q You passed ?

A Yes sir .

Q They were your next door neighbors ?

A Yes sir .

Q You looked in to see whether they were doing any business?

A Yes sir .

Q Was there light ?

A Yes sir; gas and shades up .

Q It was open ?

A Well, the door was not wide open- it was closed .

Q Which of the defendants did you see ?

A The one with the black hair

Q Was that the man ? (pointing to the defendant)

A Yes sir .

Q About ten minutes of eleven ?

A Yes sir .

Q Now in passing the store, when you went to take the air, did you notice anything uncommon in the store ?

A No sir; I did not notice .

Q Well, later, did you see any signs of fire there ?

A When this young man called me out; he said "There is a fire in the store"; I ran out and saw through the over light- I saw light in it; the shades were down .

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Q They wwere down ?

A Yes sir .

Q How long was that after you noticed that they were up ?

A About half an hour afterwards ?

Q You looked in to the transo m ?

A Yes sir .

Q From the door ?

A Yes sir .

Q And you saw what ?

A I saw that it 3was lighted up .

Q What kind of light ?

A Well, it was flames; of course I could not say .

Q Now about what time was that ?

A About twenty minutes after eleven .

Q Well, did they continue to increase, or go out or what ?

A I went upstairs after to alar m the family, and when I cae down everything was dark again; Officer Murray was standing there at the time.

Q When you came down everything was dark agaian ?

A Yes sir; I alarmed every family in the house .

Q Officer Murray was standing there ?

A Yes sir .

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Q What did you do ?

A When I came back downstairs again after I alarmed the families ?

Q Did you see the defendants then ?

A No, sir; not then.

Q You didn't see them go way ?

A No, sir.

Q Or when they went away ?

A No, sir.

Q What is your business ?

A Saloon keeper.

Q And that is next door ?

A Yes, sir.

Q Is that on the corner, the next door ?

A No, sir.

Q Your saloon is not the corner ?

A No, sir.

Q Your saloon is No. 2908, is it ?

A 2910 is my saloon; my residence is 2908.

Q And this store is in 2908 ?

A Yes, sir.

Q Where the fire was ?

A I have to pass the store when I go to my residence.



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Q You came out to take a little fresh air ?

A Yes, sir.

Q Were you running this saloon yourself ?

A Yes, sir.

Q This was a rainy night ?

A Not quite rainy at the time.

Q You came out to get fresh air at what hour ?

A Because it was smoking in my store.

CROSS EXAMINATION BY MR. PURDY:

Q At what hour did you come out ?

A At ten minutes to eleven.

Q Are you sure it was ten minutes to eleven ?

A I am quite sure; I happened to look at the clock.

Q And you saw on the clock that it was ten minutes to eleven?

A No, sir.

Q Didn't any young lady ask you to look at the watch ?

A No, sir.

Q How did you come to swear it was 10 minutes after eleven before the fire marshal ?

A I don't know that I made any such statement.

Q You did.

A That is what I said, before eleven.

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Q You were examined before the Fire Marshal ?

A Yes, sir.

Q And swore to the statement there ?

A Yes, sir.

Q You swore that it was ten minutes after eleven ?

A Ten minutes to eleven.

Q That is what you told the marshal and swore to ?

A That must be wrong, they made some mistake.

Q Your memory was as good then and better than it is now ?

A Well, they must have misunderstood me.

Q This was on the 20th. of last February that you were sworn?

A yes, sir.

Q Four days after the fire ?

A Yes, sir.

Q Then, you testified and swore before him that it was 10 minutes after 11 o'clock at the time you came out of your store for the purpose of getting some fresh air, that is correct ?

A Ten minutes to 11.

Q Ten minutes of 11 ?

A Yes, sir.

Q Did you see anything of your wife ?

A She was in my store a little while before.

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Q At what time ?

A At half past 10 o'clock.

Q When you came out and passed the store where the fire was, did you see anything of your wife there ?

A No, sir; I did not.

Q She swears that she stayed out on the front stoop there, on the front doorstep from 20 minutes to 11 until ten minutes after ?

A When she left me I saw her with a young lady; I don't know who it was, talking; and then I went in and I didn't look for her.

Q When you came out of your store you saw her ?

A Yes, sir.

Q Not in front ?

A No, sir.

Q In front of your store ?

A No, sir.

Q Where was she ?

A A little further up, about a house further up, in front of the grocery store.

Q I thought you said that you saw her in your store at half past ten, and didn't see her anywhere else ?

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A I didn' t make that statement; she was in my store and left, and after when I went out I saw her speaking with a young lady.

Q She was there speaking with her?

A In front of the grocery store.

Q What store ?

A 2908 on the other side from this store where the fire was.

Q She was talking with a young lady ?

A Yes, sir.

Q What time was that ?

A Ten minutes to 11, I went in my store back again.

Q You left her there about ten minutes to eleven ?

A At ten minutes to eleven when I went out of the store -- I was out a little while and went back again.

By Mr. Dawson:

Q If any statement is recorded that you said on the first examination that it was 10 minutes after eleven, are you mistaken, or is the person who took down that evidence mistaken ?

A You misunderstood me.

By Mr. Purdy:

Q How long did your wife stand talking with this young lady?

A I don't know; I couldn't tell you; I don't know; I was



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only out for a minute to get a little fresh air.

Q You had time enough to walk by this place and see this store open ?

A It takes me about half a minute to do that.

LAWRENCE W. McGRATH, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DAWSON:

Q Are you attached to the Fire Department ?

A Yes, sir.

Q Where were you on the 16th. of February last ?

A I was in the City of New York, I was home.

Q At ten or 11 o'clock at night, where were you ?

A At home.

Q When did you first visit the premises 2908 Third Avenue?

A About 10 o'clock Sunday morning.

Q In what capacity did you go there ?

A The fire being in my neighborhood, I merely went to see where it was.

Q What was the result of your observation ?

A I went to look at the fire to see what it was, and on Monday morning I went there officially to examine the fire

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and I found that there was two fires occurred in the place; one in the front and one in the rear.

Q Any connection between the two ?

A No, sir; there was a space about probably 8 or 10 feet, it may not be as much as that, the counter wasn't touched at all with fire.

Q Did you see any signs of kerosene ?

A I could not; through the goods I found a small of kerosene.

Q Did you examine them after that ?

A Yes, sir; I have been there three or four times afterwards.

Q The kerosene was still apparent in the smell of the goods when you examined them ?

A Yes, sir.

CROSS EXAMINATION BY MR. PURDY:

Q Did you smell the shirts ?

A Yes, sir.

Q Where did you get the shirts ?

A They were lying on the counter, around the counter.

Q On Monday morning ?

A Yes, sir.

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Q What did you do with the shirts ?

A I didn't take them along.

Q What is your business ?

A To examine into the cause of fires.

Q In what department ?

A The Fire Department.

Q You have been in the business a good many years, haven't you ?

A Yes, sir; about a little over eleven years.

Q Which was it, Sunday or Monday morning ?

A Monday morning.

Q On Monday morning you smelled kerosene on these shirts and yet you didn't bring the shirts away with you ?

A No, sir; I didn't bring the shirts away with me on Sunday morning; the place was so full of smoke and water that I merely went to see what the cause of the fire was.

Q You didn't go officially ?

A No, sir.

Q on Monday you did ?

A Yes, sir.

By Mr. Dawson:

Q Were you looking for kerosene, or was the kerosene look-

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ing for you ?

A I found the smell of kerosene on the goods.

Q And that is what suggested to you the presence of kerosene ?

A Yes, sir.

Q Its salutation to your nostrils ?

A Yes, sir.

Q This is in the 23rd. Ward ?

A Yes, sir.

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

DIRECT EXAMINATION BY MRL DAWSON:

Q Do you hold office in this city ?

A Yes, sir; Assistant Fire Marshal.

Q You have heard the evidence in this case ?

A Yes, sir.

Q What do you know about it ?

A Well, on the instructions of the Fire Marshal, on Monday the 18th., I was ordered to proceed to No. 2908 Third Avenue and investigate a fire reported by Mr. McGrath.



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I visited those premises, taking Mr. Lens, one of the attaches of the office, with me. I examined the premises and found two fires, one in the centre on the shelving and another one on the rear on the shelving in the store. There was a space of about 10 or 12 feet -- no two fires connecting. There was a portion of the stock of goods on the counter, and I smelt kerosene from the stock. I came back and reported the facts to the Fire Marshal.

Q Do you know anything about kerosene ?

A Yes, sir.

Q Is it combustible ?

A Yes, sir.

Q Does it ignite quicker than common wood or cloth ?

A Certainly, yes sir.

Q This was when ?

A When I visited the fire it was the morning of the 18th. of February, between 10 and 12 o'clock.

No cross-examination.

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

DIRECT EXAMINATION BY MR. DAWSON:

Q What is your business ?

A I am a police officer, attached to the Fire Marshal's office.

Q You have heard the evidence given in this case ?

A Yes, sir.

Q Do you know anything about the fire ?

A I know I went there on Monday forenoon, the 18th. in company with Mr. Frank, the Assistant Fire Marshal, and discovered two separate fires, one in the rear of the stove and one in the corner in the rear part of the store.

Q Did you smell anything ?

A I did not, sir.

Q You didn't discover any difference between the smell of one thing and another ?

A I didn't look for it; I just merely discovered the two fires and that there was no connection.

Q How long were you there ?

A Probably 15 minutes.

(No cross-examination).

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MR. DAWSON: I propose to introduce the examination of the defendant as to their insurance.

MR. PURDY: I object on the ground that it is entirely immaterial to prove that there was any insurance. This is an indictment for arson in the first degree. It has been held, and I have the Authorities before me -- there is no count for arson in the third degree in this indictment and you cannot maintain a conviction for arson in the third degree under this indictment. The Court of Appeals has so held. Arson in the third degree

contains the distinct element of intent to prejudice the insurer. There is no evidence here to prove arson in the third degree, and I object to this as entirely immaterial and incompetent.

The Court: The District Attorney now offers to read an examination that was taken before the Fire Marshal under oath.

MR. PURDY: To prove that they were insured?

THE COURT: It is an admission that they made. Any statements that they made which are material to the issue you have a right to prove.

(The Jurors were admonished and the case adjourned until to-morrow, May 28, 1889, at 11 o'clock A.M.)

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New York, May 28th, 1889

T R I A L R E S U M E D

O W E N F I T Z S I M M O N S, a witness for the People,  
recalled by Mr. Dawson .

By Mr. Dawson:

Q Did you occupy those premises or any part of them, the premises  
2908 ? A Yes sir.

Q Those are the premises where the fire was ? A Next door .

Q But under the same roof ? A Yes sir, two half stores;  
it is a double house .

Q Under the same roof ? A Yes sir.

Q How soon after the fire did you examine the premises ?

A When I got possession and got the keys off the man who  
occupied it .

Q Did you take possession ? A Yes sir.

Q Immediately after the fire ? A To clean it out .

Q Describe if you please the extent of the injury done by the  
fire to the premises ?

By Mr. Purdy: I object to that. My first ground is that  
this witness was examined on this question, he was here



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before and sworn yesterday, and no such question was asked him. Another proposition is that one of the witnesses stated he had exclusive charge of that place for twenty four days after the fire. Now, my friends, during the night find out that their case is very lame and they come here now to patch it up and call this witness back.

By the Court: I must allow the witness to proceed. The objection is overruled.

Exception.

Q Describe the condition when you first got in there. Fix the time first that you got into the place and describe the condition. What hour of the night was it when you first got there? A I don't know; it was a few days before the month was up.

Q How long after the fire? A I was in there several times when the watchman was there.

Q The fire was there about half past eleven o'clock or some time between eleven and twelve o'clock on the night of February 16th; now, when did you next get in there? A Well, I suppose somewhere-- when the firemen came that night I went in--- ~~and~~ I went in the place and opened it.

Q You inspected the premises, did you? A I seen the place full of smoke.

Q Was there any fire?

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By Mr. Purdy: I object. Ask him what he saw .

By the Court: That is right .

Q Now, then, sir was there any fire after that which occurred on the 16th of February there ? A No sir.

Q Not as you know of ? A No sir.

Q You have been on the premises all the time ? A I live in the premises , yes sir.

Q Did you have to have any repairing done from the fire that was there ?

Objected to. Objection sustained.

Q State if you please the extent of the damage done ?

Objected to. Objection sustained.

Q Describe the condition of the premises ? A Well, the plaster was broke on the walls. The walls were all mashed and broke, and we had to get them all repaired. I got so much to repair them from my insurance company, The New York Fire Insurance Company sent me the money and sent a man to inspect it, and sent me the money to have it done .

Q Now, speak of the fire ? A Well, the floor was burned .

Q It was burnt ? A Yes sir.

Q To what extent ? A Well, there was three or four places where the fire took place and burnt holes through it, very near through, they were through .

Q How thick was the flooring ? A Regular flooring boards, four inch boards .

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Q Now, Mr. Fitzsimmons, what is the width of that room? A Well, it is half of twenty five feet front.

Q Is that the diagram of the room? (Showing witness diagram)

A Yes sir.

Q Now how far is it from the front of the room to the rear?

A Sixty feet.

Q How wide is the room? A I can't say for certain; it is half of twenty five--twenty five feet divided between the two.

Q The half of twenty five feet? A Yes sir.

Q Divided between two? A Yes sir.

Q Where did the stove stand? A About fifteen feet from the front door.

Q It was fifteen feet from the front door? A Yes sir.

Q How far from the wall? A It might be about six feet from the wall.

Q How far from the counter? A Well, not very far, but I suppose the counter each side of it -- I suppose about four feet each side.

Q Then where was the second fire -- in what part of the building, show the jury there? A There was no second fire -- that is only one fire.

Q There were two places? A Yes sir.

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Q Had there been any fire on those premises previous to this ?

A Not as I know of, I never heard of it .

Q Before the fire were you in the habit of entering that room ?

A No sir.

Q Do you know what the condition of the property was ? A I would just go in once in a while to see them, how they were getting along .

Q Do you know what the condition of the floor was before the fire ? A All in good order.

Q Is that a photograph of the premises ? (Handing witness photograph) A I don't know what to call that; that is some what like it .

By Mr. Purdy:

Q The watchman tells us, or the fire patrolman tells us, that he went into those premises and had exclusive charge or control of them for twenty four days after the fire. Is that true or false ? A He was there .

Q And he would not let you in ? A I never went there except these men came there .

Q What men came there ? A That occupied the place where the fire was .

Q When they came there ? A Yes sir.

Q When they came there you went in ? A Yes sir.



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Q When was that ? A I don't know .

Q Tell us when you went in ? How many days after the fire before you went in ? A I can't tell you, sir.

Q Was it one day, two days or ten days ? A I can't tell you .

Q Or twenty or thirty days ? A No sir.

Q How long was it ? A Well, it might be two or three times .

Q I aint asking you ~~that~~, two or three times--How many days after this fire was it before you went into the rooms ? A I can't say .

Q Will you say withing ten days ? A It might be about ten days .

Q Then you saw the place where they punched in the ceiling, did you ? A Yes sir.

Q It was a hole punched in ? A Yes sir.

Q And you had that repaired and got your insurance on it for having it repaired ? A I had the whole place repaired .

Q You had that repaired ? A Yes sir, all repaired .

Q Who repaired it ? A The man is here that repaired it .

Q The carpenter ? A Yes sir, the carpenter and painter .

Q When did you employ him to repair it ? A When I got possess-ion .

Q How long after the fire ? A After they gave me the keys; I don't know how many days .

Q Twenty four days, wasn't it; pretty near a month -- wasn't it

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six weeks ? A The month was very near up .

Q Wasn't it six weeks after the fire, after the 1st of April ?

A It might be for all I know.

Q Before you got in there you sent these men in to repair it ?

A When I got possession of it--the keys .

Q That was about six weeks ? A I can't say for certain; I kept no account of it .

Q How long was it, a month or six weeks ? A I didn't take no account of it .

Q Is the man that made those repairs here in court ? A Yes sir

Q What is his name ? A Mr. Kunzman .

Q Now the floor you examined you say ? A Yes sir.

Q What part of the floor, the whole of the floor ? A I looked over it all .

Q You looked at the place and you say there was but one fire ?

A I don't know how many, there might be a dozen of fires .

Q You only saw one ? A I wasn't there when it blazed.

Q You only saw one fire ? A I saw none, but the stuff that was put there, except the old stuff was there that was burning.

Q You saw no fire, you saw some stuff burning ? A Yes sir.

Q Plenty of smoke ? A Yes sir.

Q That floor that you have been telling about, where was that floor ? A In the store .

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Q What part of the store ? A The carpenter is here and he can tell you all about it .

Q I am asking you what part of the store was it in ? A I can't say for certain .

Q You told Col. Dawson about it ? A I told the carpenter to go and repair the place and fix that up .

Q Were you present with him when he repaired that ? A I saw him repair it .

Q What did he <sup>do</sup> ~~say~~ when he repaired it ? A He took out the burned ~~boards~~ part in the boards and put new pieces in .

Q Where are the old ones ? A In the ash barrel .

Q You didn't think it necessary to keep them at all ? A What for ?

Q Had you been examined by the Fire Marshal at that time ? A I had ? Nosir.

Q Yes, you had, here is your examination ? A I don't know.

Q Why did you say you hadn't and now you say you don't know ?  
A I can't tell you everything .

Q Here is your evidence taken on the 20th day of February, 1889, four days after the fire ? A All right .

Q You have been examined ? A Yes sir.

Q Had you been in the building at that time ? A No sir.

Q The Fire Marshal hadn't told you about those boards ? A No

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sir, he never told me; I had no call to ask him, it isn't my business.

Q Who were you talking to about this case last night? A Where

Q Any where in the world about this case? A Why, we all talked about it when we met.

Q Last night? A I could not tell you; I talked to any one that asked me about it.

By Mr. Dawson: Did I ask you anything?

By Mr. Purday: Oh, no.

Q Did Fire Marshal Frank talk with you last night? A No sir

Q Who did talk with you last night? A I don't know, I didn't pass any remarks.

Q Did you talk with the Fire Patrolman? A No sir.

Q With any Insurance man? A No sir.

Q With anybody else? A No sir.

By the Fire Marshal:

Q Did you talk with me about it?

A Yes sir.

By Mr. Purdy:

Q You just recollect that you talked with the Fire Marshal. Did you talk with others about it? A Not as I know of, I might have for all I know.

Q How thick was this board, this floor? A Regular flooring



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boards .

Q How thick ? A Ask the carpenter, he will tell you .

Q You don't know? A No sir.

Q You don't know how far it was burned ? A I could not say, it was covered over with boards, the patrolman nailed a piece of old board over that so he wouldn't fall through there .

Q These old boards were over it so you couldn't see it ?

A I saw them when the carpenter took them off and was repairing them .

Q Can you tell how deep this fire had burned ? A I can't say, it burned the boards, it burned them through .

Q You swear to that ? A Why, I seen the hole there .

Q Clean through? A The man had to put in new boards .

Q Do you swear that the fire had burned clean through those boards ? A I saw one of them .

Q How big a hole ? A I don't know how deep .

Q How deep a hole ? A I don't know.

Q As large as a five cent piece or as large as a quarter of a dollar . Describe how large ? A I suppose about a foot or three feet long .

Q About a foot long and a foot wide ? A Yes sir.

Q And that was burned right through ? A I can't say for

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certain .

Q How large was that hole you saw which was burned through ?

A It might be about two feet six long and about that wide.

(Indicating)

Q And that was burned clear through ? A I don't know whether it was all burned through or not, but we had to cut off what was burned away .

Q Can you tell me how much of a hole was burned through there ?

A I can't say .

By Mr. Dawson: This is inadmissable and irrelevant. All we have to show is that there was fire enough there to char the premises, and since we have shown that there was a hole burned through, it don't make any difference about the size of the hole . It is a fact that there was a hole there .

Q Now, can you tell us -- you don't appear to know anything about this except what some one told you last night ?

A About what ?

Q About this floor being burned ? A I don't know .

Q Only what they told you last night ? A Ofcourse I know .

Q Did you ever tell anybody else that this floor was burned ?

A Didn't I employ the carpenter to fix it ?

Q Did you ever tell anybody else that this floor was burned

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before last night ?

By Mr. Dawson: I say that this is irrelevant .

By the Court: Ofcourse it isn't ~~im~~material, but this is cross-examination .

Q Where was this place where this board was a foot long or two feet long and about half a foot wide ? A It is about eight feet from the front door--about there .

Q About eight feet from the from door ? A Eight or nine feet

Q Don't you know that board was cut there to let the water out by the firemen ? A No sir.

Q You never heard that before ? A No sir.

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

Direct Examination.

By Mr. Dawson:

- Q What is your trade ? A Carpenter .
- Q Where do you live ? A 2010 Third Avenue .
- Q Where were you in February last ? A Right at the premises .
- Q Where do you say ? A At the same premises .
- Q You lived there ? A Yes sir.
- Q Have you repaired those premises lately ? A Yes sir.
- Q The floor ? A Yes sir.
- Q How large a piece did you take out of the floor, describe the condition and when it was ? Ttate the date ? A I cannot tell you the date, sir.
- Q Do you know anything about the occurrence of <sup>a</sup> ~~the~~ fire there within the last twelve months ? A Yes sir.
- Q Do you know when the fire occurred ? A I could not tell you the date, sir .
- Q Do you know how long it was after the fire that you went there to repair the premises ? A It must be about a month or six weeks, something like that .
- Q What was the condition in which you found that floor when you went there ? A It was burned in several places and



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and bursted with an axe in three places .

Q Burned in three places ? A Yes sir.

Q To what extent was the burning ? A I could not tell you--  
the burning was in one place pretty near through, burned  
through, and in the other two places it was pretty ~~scorched~~  
scorched and chopped through with an axe and had to be re -  
paired .

Q You repaired it ? A Yes sir.

Q In all three places ? A Yes sir.

Cross-Examination:

By Mr. Purdy:

Q There was a hole in the wall upstairs ? A I cannot remem-  
ber that because this place was kalsomined when I repaired  
the floor .

Q Did you see any hole in the ceiling ? A I could not tell  
you, I couldn't tell anything about that .

Q You saw this floor burned in three places and chopped with  
an axe ? A Yes sir.

Q Chopped with an axe in all three places ? A No sir.

Q In two of thre places ? A Yes sir, in two of the places .

Q Do you know that that was chopped with an axe to let the  
water out ? A Well, I suppose so .

(The last answer was stricken out )

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Q Where were these three places that you saw where this floor, as you say, had been burned ? A About here. (Indicating on diagram)

Q About eight feet from the front door ? A Yes sir, and about three feet from this wall; there was a place around here about ten or twelve feet, I can't say exactly because I didn't measure it, there was a hole here and a hole right here. (Indicating)

Q All burned ? A Yes sir.

Q But where was the one in which the space of two feet six by one foot three that was burned ? A It was not all burned; it was scorched, of course.

Q Where was that one ? A In the back on the right hand side going through.

Q How large was the one that was eight feet from the door ? A About one foot by two feet.

Q Was that burned or scorched ? A That was burned.

Q And was it burned through ? A Not all burned through, but about within half of an inch.

Q And was that chopped with an axe at all ? A Well, I can't tell, somebody must have stepped on it and broke the rest of it.

Q And broke it ? A Yes sir.

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Q You took that board out, did you ? A Yes sir.

Q And the other board ? A Yes sir, I have to go from beam to beam .

Q You have not got those boards now ? A No sir.

Q You didn't keep them ? A No sir, why should I keep them, the Fire Marshal was gone long before .

Q He had been there ? A Yes sir; not at this time I repaired the floor though .

Q This was about a month or six weeks afterwards , A Yes sir.

By Mr, Dawson:

Q Do you know that the Fire Marshal was there after you were there ? A Nosir .

Q Do you know that the Fire Marshal knew that you cut anything out at all ? A No sir, he hasn't been there .

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JAMES RAY, recalled.

By Mr. Dawson:

Q At what time did you testify you went upon those premises ?

A I left the patrol house half past twelve on the morning of February 17th and I got to the premises 1 o'clock .

Q At 1 o'clock in the morning ? A Yes sir.

Q And took possession ? A Yes sir.

Q You held possession how long ? A Until the 13th day of March about 1 o'clock .

Q When you first went upon the premises did you inspect them ?

A Yes sir.

Q In what condition did you find the floor?

Mr. Purdy: I object to this witness testifying further.

He went over everything before .

The Court: I shall have to allow it .

Exception .

Q In what condition did you find the floor ? A I found the floor covered with water and covered with goods and about three holes broken in the floor .

Q What was the difference between the appearance of that part of the floor where the holes were broken and the other parts of the floor ?

Mr. Purdy: I object to that.



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A The appearance of the floor looked as though the burned goods were there .

Q I want the appearance of the floor not the burned goods. I want a description of the floor. What made the holes ?

A The firemen broke the holes .

Q Now then, were the holes where the fire was ? A No sir, they were on the outside of the counter .

Q Did you examine the floor at all to see where ~~xxx~~ the fire had been-- whether any fire had burned through or not ?

A No sir.

Q Now, did you find any signs of fire on that floor ? A No sir.

Q You found no signs of fire ? A No sir.

Q On any part of the floor ? A No sir, no part of the floor.

Q Did you inspect it for that purpose ? A Yes sir.

Q To see whether there had been any fire or not ? A Yes sir.

Q You were unable to discover any signs of fire ? A I was unable to discover anything whatever.

Q In any of the places ? A In any of the places .

Q What time did you make that inspection ? A In the morning at daylight .

Q On what day ? A On the 17th of February .

Q You think you could not be mistaken ? A No sir.

Q State whether there had been any holes made by fire in that floor at all ? A No sir; no holes made by fire; it

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was where the firemen broke the holes in the floor with an axe to let the water out of the room .

Q You had absolute possession of the place for twenty four days . A Yes sir.

Q When did the old gentleman come in there ? A He came in on Sunday morning following .

Q And he went away again ? A Yes sir.

Q When did Sanda witch came there ? A On Monday morning about half past 8 o'clock Sandawitch and Kaplan .

By Mr. Purdy:

Q You told us yesterday that these goods that were on the shelf and the shelf had been smudged by smoke or something to that effect ? A Me ?

Q Somebody did ? A I guess it wasn't me .

Q You are a member of the fire patrol ? A Yes sir.

Q And you have been such for how many years ? A About five years and a half .

Q Your business is to look out for the interest of the insurance companies ? A Yes sir.

Q And you as such came into the premises soon after the fire ?  
A Yes sir.

Q Almost immediately--before the firemen left ? A The fire was out some time before I got there, probably an hour .

Q You came in next after the firemen ? A No sir, Officer

Clark was left there after the firemen left there .

Q You examined the whole place with a view of ascertaining the cause of the fire ? A The next morning I did .

Q You stayed there over night ? A Yes sir.

Q Nobody else came in ? A No sir, not that night .

Q You examined the place with a view of ascertaining where the fire occurred and just how it occurred ? A Yes sir.

Q You found that it occurred by the firing of the goods on the shelves ? A I found the fire occurred behind the stove on the shelving .

Q And there was no fire on the floor whatever ? A No sir.

Q And the holes you saw in the floor were made by the firemen?  
A Yes sir.

Q In the floor so as to let the water out ? A Yes sir.

Q And there was no sign of any fire upon the floor whatever?

A I found no signs of firing on the floor whatever .

Q You examined it carefully to see if there was anything of the kind ? A Yes sir.

By Mr. Dawson:

Q Did you see the firemen when they used axes there to make those holes ? A No sir.

Q That was before you got there ? A Yes sir.

Q How large were these holes ? A I guess one was about

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eighteen inches long and one six inches square .

Q Did you see that part of the floor which was ~~removed~~ missing to make the hole ? A I found two pieces of it, yes sir.

Q Did you take that up and inspect it ? A I did not .

Q You can't tell whether it was burned or not ? A I didn't take notice of that part .

Q Now, will you please state how much you examined of the shelves ? A Yes sir.

Q Did you find any signs of fire there ? A I did .

Q To what extent ? A I found the fire originated and started on the shelving behind the stove .

Q Explain how much of the shelving was burned ? A One shelf was burned off about six feet and then it stopped and skipped eight feet of shelving and started in the corner again and burned the whole corner out .

Q Was it burned up ? A No sir, it was only charred .

Q And it was charred ? A Yes sir .

By Mr. Purdy:

Q You say that where the firemen cut through--they cut out the pieces ? A Yes sir, they cut out the pieces .

Q So when you went there there were holes in the floor ?

A Yes sir.

Q Where they cut them out ? A Yes sir.



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Q Did you see any pieces ? A I saw them on the floor .

Q You examined those placed where the firemen cut through ?

A Yes sir.

Q Carefully to see any traces of fire ? A Yes sir, carefully.

By Mr. Dawson:

Q May or may not there have been signs of fire on the pieces that you didn't see ? A There might have been .

Objected to .

The Court: Strike out whether there might have been .

Mr. Dawson: I will now call the Fire Marshal .

Mr. Purdy: I object to this witness, the Fire Marshal, being examined, on the ground that he has been in the court room .

Mr. Dawson: The fire marshal is indispensably necessary to the conduct of this prosecution. He has had the whole preparation of the case in his hands. He is a man of very superior intelligence and was necessary to this prosecution as an assistant counsel, and he has been an assistant counsel .

The Court: I have frequently excluded a Fire Marshal from the court room upon the request of counsel for the defendant

Mr. Purdy: I would not object on any other ground except it come on this delicate ground here as to whether there was any fire there or not. That is the point in this case, and that is the point which he had not proved last night.

The Fire Marshal has been here all day and has heard these witnesses testify and I submit that his evidence at best is accumulative if their witnesses are to be believed, and this is a very delicate question. Your Honor intimated last evening that you did not see that the prosecution had any evidence of arson whatever in the first, second or third degrees. Then they go up to this place last night and try now to make out a case.

Mr. Dawson: I had not completed my case last night and I deny that I made the slightest intimation that I was through with my evidence. This is the first time in a practice of fifty years that I have heard that the qualification of a witness to tell the truth was a reason why he should not be allowed to do so. One other point I wish to make is that Mr. Purdy has sat here and saw the Fire Marshal in my presence and he was bound to know that he might be called as a witness and he consented to his presence. It has always been the rule and always been the practice and always should be among honorable gentlemen to say when they see a witness in court that they shall object to him testifying if he remains. Mr. Purdy did not object and that is a consent to his presence. He would not have dared to insist upon his removal if I had asked to have him stay.

Mr. Purdy: I made no such objection yesterday because I didn't object to anybody being present, but when this morning I saw what they were about, I saw they were about to prove this fire I objected to the witnesses that were to prove it, and I assumed that the Fire Marshal was not to go on the stand. One of the witnesses that was excluded from the court room flatly contradicted the other witnesses .

Mr. Dawson: It is a question of discretion with the Court as to whether the witness shall testify, and I ask your Honor now to exercise your discretion in this crisis when this guilty man is flying to a technicality like this, and I insist upon the right of Mr. Mitchell to testify .

The Court: It was an error to allow the witness to remain , but he is a public official and a sworn officer of the City government and he seems to have remained under a misapprehension. I shall allow him to testify. If the witness who was called was from a different class perhaps I should exercise the discretion in favor of the accused, but I do not feel justified in keeping out of the case anything that this officer of the City Government may know.

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

Direct Examination .

By Mr. Dawson:

Q Where is your residence ? A I reside in Fordham in the City of New York in Webster Avenue .

Q Do you hold office in this City ? A Yes sir.

Q What is it ? A Fire Marshal .

Q Have you heard the evidence given in this case ? A I have .

Q State all you know from beginning to end in your official capacity in regard to this fire ? A On the morning of Monday, the 18th of February, one of my assistants Mr. McGraft who is assigned to that district reported to me a fire --

The Court: Never mind any reports. Tell all you saw when you first visited the place ?

A On the afternoon of Tuesday, the 19th of February-- I had an occupation which prevented my going there sooner than that-- I visited the premises and found a fire had occurred there, or rather two fires had occurred simultaneously at 2010 Third Avenue. A patrolman had been there in charge of the fire .

Q Who was that ? A Mr. James Ray. I went into the building and examined the building and found there had been burning a fire in the forward part of the store and in the rear ~~part~~



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and about the stove . There was also in the rear part of the store, where the shelves had been pulled down and goods had been on them . The shelving I examined. They were there for my inspection; the general order is that these things shall not be removed or disturbed after the fire until I have made my examination . . I examined the shelving and found it partially burned on the lower side and along the outer edges. I saw goods lying on the counters that had been removed from the floor and placed on the counters and they were more or less burned. I saw lying in the corner a pile of debris or goods that had been almost totally destroyed along the middle in the forward part of the store. The shelving in the rear continuous to the stove had been burned. The goods had been taken off them and the upper shelving, two or three rows of upper shelving, had been removed by the firemen and the goods had been placed on the counter . I examined the place generally. I saw there were two or three holes in the floor but I didn't notice if they had been burned. I noticed they went through, and as far as my examination went I didn't notice that they had been burned, but the shelving had been burned.

Q How extensively ? A I should say the two lower shelves had been burned to the extent of about a foot or a foot and a half and had been charred and partially burned in both directions from that. I could find no connection whatever

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between the fire in the forward part of the store and the rear part of the store . Some ten or twelve feet of shelving which had goods on them at the time, I made an inspection of , were still standing and these had not been touched by fire .

Cross-Examination:

By Mr. Purdy:

Q From your investigation--did you find from your investigation that the fire occurred in the goods on the shelves ? A I found the goods had been partially burned .

Q And taken down from the shelves ? A Yes sir.

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JOHN H. DOHERTY, a witness called by the People, being duly sworn, testified as follows:

Direct Examination:

By Mr. Dawson:

Q What is your business ? A Assistant Secretary of the Phoenix Insurance Company .

Q Are you acquainted with the defendant ? A No sir.

Q Do you know whether a policy of insurance was taken out of that company by which you are the secretary, by Sandawitch & Kaplan ?

Objected to. Objection overruled.

A Yes sir.

Mr. Dawson: I now offer the Policy with the Phoenix Insurance Company in evidence.

Marked, 'People's Exhibit A' of this date .

Q What company do you say you belong to ? A Phoenix .

Q Examine the paper I show you. Is that the paper issued by your company ? (Handing witness policy) A Yes sir.

Q Do you know the defendant ? A No sir.

Mr. Purdy: I admit that those are our policies.

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HENRY A. LANDGRAFF, a witness called on behalf of the People,  
being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DAWSON:

Q What is your business ?

A Adjuster of fire losses.

Q Have you been called upon by the defendants to adjust a  
fire loss within the last five months ?

A One of my men called upon them; I have not been called  
upon by them.

Q Did you have any interview with either of them about  
that fire loss ?

A Yes, sir.

Q State exactly what occurred between you at that interview?

A Well, about three or four days after the fire ---

Q What fire ?

A After the fire which occurred on the 16th. of February  
last.

Q Where ?

A At No. 2908 Third Avenue; they came down with one of my  
clerks to my office; I told them that we would attend  
to their case, and that is all that happened that day, I  
think.

Q I hand you a statement. Will you examine that tabular



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statement of loss ?

A This statement was made out by one of my clerks.

Q At whose expense ?

A Well, I sent a clerk up there to take an inventory.

Q Did the defendants present that claim ?

A To me ?

Q As the representative of the Fire Insurance Company ?

A No, sir; I am not the representative of the insurance company.

Q As an adjuster ?

A Well, they presented this statement as the goods that they claimed to have had on hand at the time of the fire, together with those that were found, those that were found after the fire.

Q What did they state about that bill of goods when they presented it to you ?

A They stated probably nothing to me, they stated everything to that clerk of mine.

Q Were you present ?

A Hardly ever.

Q Is he here ?

A He is in Jersey to-day.

Q He is in Jersey to-day ?

A Yes, sir.

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Q When did he go there ?

A This morning.

Q On your business ?

A Yes, sir; to Newark St. in Hoboken.

Q Did you have any conversation at all about that ?

A I had that much conversation, that afterwards this was handed into the Companies, you know, and then the companies demanded a proof of loss, and when the companies said that they wanted a proof of loss I first commenced to look into the matter.

Q State what happened after you commenced looking into the matter ?

A Then I went up there; it was about ten or twelve days after the fire and I went to the store and I met them there and I told them that the loss which they claimed of the goods that they claimed had been totally destroyed by fire seemed rather large to me.

Q That is, what they claimed had been totally destroyed by fire ?

A Yes, sir -- loss, I suppose.

Q Don't state unless you know ?

A Yes, sir, a loss.

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Q Tell us the amount ?

A Well, that would foot up about \$2200.

Q \$2200 of a total loss ?

A Yes, sir.

Q go on and state what the conversation was between you and them about that total loss ?

A Well, I told them that there might have been thieves robbing the store before it was set on fire; I thought the goods might have been there because they told me that they had those goods on hand before the fire.

Q They told you that they had these goods on hand before the fire ?

A Yes, sir; they didn't tell me they were burned up, they told me those were the goods they had on hand before the fire.

Q And presented that as their claim ?

A Well, I didn't present it to the companies.

Q They presented it to you for that purpose ?

A Well, that was at my decision, I suppose, to be taken. I told them that if they wanted to push that case for that amount they had better take some lawyer, and they went and did take Mr. Manheim.

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Q This young gentleman ?

A Yes, sir; I went to the insurance companies and compromised the loss after Mr. Manheim called upon me.

Q What did you compromise the loss for ?

A \$750; one company paid the loss right away.

Q Was that before or after the indictment ?

A Before.

Q Will you please examine those figures there and see if you will correct your evidence about the amount, doesn't it foot up \$3,100 ?

A No, sir; the goods they claimed -- those goods they had on hand before the fire, and those goods that were found foot up \$747 -- the portion of those goods that they found you have deducted and they foot up \$747; that is the sound value of the goods we found, and besides that there were some goods totally destroyed by fire; there is no question but what there was a large fire there.

Q Were you there ?

A Yes, sir.

Q How soon after the fire ?

A I told you about ten or twelve days.

Q Upon what facts do you base the opinion you have expressed that there was a large fire there, and there were some



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goods totally destroyed ?

A Because \$747 worth of goods, that is the sound value of the goods, supposing the goods were not damaged, then they would have been worth \$747; but they were in such a condition that I would not have given \$75 for the goods as they were.

Q But they could have been damaged by water ?

A The fire was much larger damage to the goods than the water.

Q How long do you suppose from the signs that you saw there and upon which you base this opinion, did that fire last?

A I can't tell you that; I have never been at fires to see how long it takes.

Q You never were at a fire to see how long it takes for a fire to injure goods ?

A No, sir; that is none of my business.

Q Is it your opinion that 7000 yards of rolled up goods could be consumed by fire in five minutes ?

Objected to.

A There were some rags which showed that there were some goods totally destroyed which we did not inventory; that I positively know, I have seen that when I was there.

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Q How many rags ?

A Well, I only stayed there a few minutes, a very few minutes indeed.

Q You got a glimpse of some rags ?

A Yes, sir.

CROSS EXAMINATION BY MR. PURDY:

Q You are a public adjuster ?

A I call myself so.

Q You have been in the insurance business how long ?

A 24 years.

Q You have, I suppose, a personal acquaintance with many officers of insurance companies ?

A Yes, sir; just the same as you have acquaintances among the district attorneys.

Q I suppose you have, as I have, facilities for adjusting matters with insurance companies in a friendly way ?

A Yes, sir.

Q You keep a watch and when you hear of a fire you send one of your clerks and tender your services ?

A Yes, sir.

Q On this occasion, in pursuance of your usual plan, one of

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your clerks went to see these gentlemen ?

A Yes, sir.

Q And some conversation, as you understood it, took place with the clerk ?

A Yes, sir.

Q Did they in pursuance with that interview with the clerk come to see you about it ?

A Yes, sir.

Q Did they bring down this statement that you have seen here ?

A No, sir; that took some time before that was done.

Q Then you gave them some instructions, did you ?

A I generally give my instructions to my clerk, not to them.

Q You saw very little of them ?

A Yes, sir.

Q This bill of items was presented to you ?

A Yes, sir.

Q With a view to your acting as their agent to adjust that matter with the insurance companies, without a law suit ?

A The proofs of loss were signed and sworn to, simply the loss which they thought they had.

Q And what they thought they were entitled to ?

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A Yes, sir.

Q You were to exercise your own discretion as to whether you presented that to the insurance companies or not ?

A No, sir; they said that that was what they had.

Q And what they claimed ?

A Yes, sir.

Q Is it the usual course for claimants to appoint an adjuster and then the fire company to appoint an adjuster ?

A Yes, sir.

Q And these two gentlemen get together and they act as referees, as it were ?

A They try to come to terms.

Q And the effort is on the part of the claimants to make his loss as large as possible, and the efforts on the part of the fire companies is to make it as small as possible ?

A Yes, sir.

Q On this occasion, was there another adjuster appointed ?

A By the companies, there were two appointed.

Q You had two gentlemen to contend with ?

A Yes, sir.

Q They examined the matter very carefully ?

A I suppose they did.



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Q And finally as a result, when they presented their bill, you told them that if they wished to press that claim against the companies, they had better employ a lawyer ?

A Yes, sir.

Q It being a large claim ?

A Yes, sir.

Q They employed Mr. Manheim ?

A Yes, sir.

Q Mr. Manheim aided you in your efforts to bring about a compromise ?

A Yes, sir.

Q A compromise was effected in which \$750 was to be paid to these men ?

A By a compromise; not going into details as to how much they had on hand or what the loss was; by a compromise, simply to prevent any further litigation.

Q To prevent any litigation or trouble ?

A Yes, sir; for that reason that was accepted and the proof was so written.

Q And the companies then -- one company paid ?

A The London, Liverpool & Globe, paid \$450 right away.

Q They gave you a check for it ?

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A Yes, sir.

Q Quite soon thereafter ?

A Yes, sir.

Q You gave the check to Mr. Manheim ?

A Yes, sir!

Q Didn't the Phoenix draw a check?

A Not to my knowledge.

Q Did the Phoenix object to what was done ?

A Mr. Kosmak claimed afterwards that he had a different view than Mr. Pitcher, who settled for the Liverpool, London & Globe, that he had a different view and that he had ought to get a report of the Fire Marshal first before he would give in to that.

Q Wasn't this after they were indicted ?

A I did not know that they were indicted; on either the same morning or the next morning I went to see Mr. Kosmak and showed him the Liverpool & London check.

Q They were arrested on the 28th. When was this settlement effected between the companies' ?

A I can't give you any dates. If the check was here I could tell you. I don't remember any dates. I have six hundred cases to settle during the year and I can't

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remember one single case.

By Mr. Dawson:

Q These defendants were your patrons ?

A My clients.

Q Did you recommend the attorney they employed ?

A No, sir; at no time.

Q Do you know him ?

A I know him now.

Q Didn't you know him before ?

A No, sir; neither of the two. I never had a conversation with Mr. Purdy of any kind nor any of his associates about this case.

By Mr. Purdy:

Q This check was dated March 26th. ?

A That is dated March 26th., it was probably settled a day or two previous. I thought that it was all settled and I saw Mr. Kosmak afterwards and he said that I must have

misunderstood him, that he wanted to have the report of the Fire Marshal first.

Q Did he say this before the men were arrested or afterwards ?

A When they were arrested I had no more talk about this with Mr. Kosmak to my recollection. I do not know when

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they were arrested in fact.

The statement of loss was marked for identification as People's Exhibit C.

By Mr. Dawson:

Q That paper was made out by your clerk?

A The prices were given by the assured. That is in my clerk's handwriting, I think, one of my clerk's handwriting.

Q A clerk whom you sent to get a statement from them?

A Yes, sir; he may have made that in the office.

Q They talked with you over that paper and about it?

A Yes, sir, they did.

Paper offered in evidence objected to.

By Mr. Purdy:

Q You don't know when that paper was made out?

A It was made out after the fire.

Q You were not present when it was made out?

A No, sir.

Q It is in the handwriting of one of your clerks?

A Yes, sir.

Q You don't know of your own knowledge where he got his information from?

A I know he would get his information from the assured.



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Q Were you present when he got it ?

A Not about the prices.

Q You heard no statement from these people to your clerk ?

A No, sir; I don't think I would, because the clerks are competent men and I couldn't do these kind of things myself. I had six clerks to do that work.

Q They do it just the same as you do ?

A They are competent men.

By Mr. Dawson:

Q Please to state whether or not you did advise with the defendants about the propriety of making this claim ?

A I don't remember must about the case to tell you the truth.

Q Didn't you advise them whether or not it was prudent to make such a large claim ?

A I stated before that I advised them that it would be proper to compromise the loss, and I would not put that in a proof of loss.

Q This paper was submitted to you and talked over by you and them together ?

A For a few minutes in their store; I had it in my hands then. About 12 days after the fire I went up there, be-

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cause the companies demanded a proof of loss. When the company demands a proof of loss I seem to think there is something wrong, and I take those matters in my hand. I went up there with that thing and talked to them about it and told them it would not be wise to file a proof of loss. I had it in my hand, and I was not there longer than 3 to 5 minutes.

Q Did they say anything about this statement ?

A They stated simply that that was the amount of goods they had there before the fire and I told them that it might be possible that some thief got in there and robbed the store and set the place on fire.

The paper was admitted in evidence.

By Mr. Purdy :

Q Did you read that statement to them ?

A No, sir; I didn't read it to them.

Q You held it in your hand ?

A Yes, sir; I didn't read it to them.

Q Did you read it before them ?

A No, sir; I did not.

Q You merely had that paper in your hand ?

A Yes, sir.

Q While talking with them ?

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A Yes, sir.

Q And you said they had better get a lawyer ?

A Not at that time, that was later on.

Q You had the paper in your hand and said that to them ?

A I said I didn't think they might have been destroyed, that much goods by fire, I thought there might have been thieves break in the back and steal the goods and set the place on fire so as to cover up their theft. I didn't think it was wise to file a proof of loss. That I would rather compromise it.

Q Was the gross amount mentioned at that conversation ?

A No, sir; the gross amount was not mentioned.

By Mr. Dawson:

Q You had the paper in your hand and they saw it?

A Yes, sir.

MR. PURDY: I object to this paper. It is a paper presented by our agent as the basis of a compromise. He says to them "If you are going to make a large claim you had better get a lawyer" while he holds a paper in his hand; how is it material ? It doesn't throw any light upon the case.

Objection overruled; exception.

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Q You never did present that paper to the insurance company ?

A One of my clerks sent it there or brought it there.

Q Did you see him do it ?

A I don't think I did.

Q Is that clerk in town ?

A I don't know which one brought it to the company, I have a number of them.

Q Can you learn ?

A I can't find out very well.

Q You have the same clerks in your employment now ?

A Yes, sir; for 3 years. I don't know who it was that presented that statement.

Mr. Dawson: With the exception of calling that clerk I rest the case.

By Mr. Purdy:

Q You saw rags of goods that had been totally destroyed ?

A yes, sir; some goods, some remains I saw there.

Q How long were you there ?

A Between 3 and 5 minutes.

Mr. DAWSON: We rest.

MR. PURDY: So do we. I don't hardly think it



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necessary to address the Jury unless my friend desires to be heard. I move that your Honor advise the Jury to acquit on the ground that there is no evidence in the case to show that there has been any burning within the meaning of the law. The only evidence that is at all reliable in the case is the evidence of the Fire Marshal and the other witnesses who came back and they say that they found some of the shelves charred. The shelves are no part of the walls of the house; they are no part of the house itself; they are merely shelves that are put here to hold these goods.

The Court: I think I will hold that if the Jury should not be satisfied that there is sufficient destruction to the realty to justify a conviction as charged in the indictment, they might convict of an attempt. I would not be justified in advising an acquittal upon that ground. I am inclined to the opinion that the burning as described to the shelves may be sufficient to establish that element of the case. But the evidence to connect them with the commission of the crime is a matter to be carefully considered. You see that in the

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evidence before the Jury now, as far as appears, their property was properly insured for what it was worth; the jury must assume that this claim was in no way improper. The testimony of the adjuster is that the loss and damage by fire was quite extensive, and he told these people that they had better employ a lawyer if they intended to insist upon collecting it. There is nothing in what they did with the insurance companies to justify any adverse inference. The amount does not seem to be inordinate. There is no evidence that it was inordinate or improper. Now, at about 20 minutes past eleven, a fire breaks out in the place, they don't live there, either of them; everything about the premises were about as usual except the shades were down which had not been observed to be the case by the landlord before, and yet there is not much in that circumstance. They are seen about the premises at the place where people come in and go out, and it is an open question as to how much kerosene there was there or whether there was any, some say there was

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and some day there wasn't -- but there is some evidence tending to show that there was kerosene upon the goods. Now, what is there in that to warrant the inference that these men, or either one of them, kindled these fires; the stove was hot. Before there can be any conviction, the evidence being circumstantial, the Jury have got to conclude that the condition of things that existed there at the time that the fire was discovered could not have been brought about in any way except by the wilful act of this defendant.

MR. DAWSON: I think that is susceptible of demonstration.

THE COURT: They were not seen there with any kerosene; there was nothing in his acts that was particularly suspicious or in the appearances there at the time the fire was discovered. No motive is disclosed on the part of these people.

MR. DAWSON: I ask the Court the privilege of going to the Jury on those facts.

THE COURT: It is pretty light, but I think I ought to let the Jury pass upon them. The evidence is circumstantial.

(Both counsels sum up. )

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The Court charged the Jury as follows:-

Gentlemen of the Jury: This defendant, with one Simon Sandowitch, is charged with the crime of arson in the first degree.

"A person who wilfully burns, or sets on fire in the night time, a dwelling house in which there is at the time a human being, is guilty of arson in the first degree"

That is the crime with which this defendant at the bar stands charged, and counsel for these accused persons elected to try them separately, which is a very proper and usual thing. The People, in the exercise of their discretion, chose to try Philip Caplan, the defendant at the bar, first, and we have now got to the point where the duty devolves upon you of deciding the question of his guilt or innocence. You have listened to a large variety of cases during the term, and none perhaps involving quite as much responsibility as the case at bar, in view of the very serious nature of the charge. No crime can be conceived which is <sup>wicked or</sup> more horrible ~~or wicked~~ in its results than the malicious and wilful firing of a dwelling house occupied by human beings in the night time; it is liable to bring death and de-



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struction to innocent persons; it is most serious in its consequences, and no punishment can be too severe for any person guilty of such an offense.

Now, you are to decide what the facts are in this case upon the evidence, without regard, however, to the nature of the offense charged, without any regard to the consequences of your verdict, without favor to any one and without any fear of results. The responsibility is entirely with you. The theories of counsel it is no part of your duty to adopt, except so far as they coincide with your own views and judgment. It is no part of the duty of the court to have any opinion on the questions of fact; ~~the~~ judges, like other men, are very liable to have opinions of their own; God forbid that in most cases I should be without them. But it is no part of the duty of a jury, if they think they catch an intimation of the opinion of the judge upon any question, to be guided at all by that opinion. In what I have said with reference to the facts of this case, I alluded to what I regarded as the ~~weak~~ features of it, for the purpose of drawing out discussion, rather than by way of expressing an opinion.

Now, let me briefly endeavor to direct you in a course of reasoning that will lead you to a proper con-

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clusion, and lay before you the rules of law that must guide and direct you in reaching that conclusion.

First: the law says that every man comes here presumably innocent. You have got to start out assuming that he is a man of good character, and, in this case, you have ~~not~~ that presumption maintained to the end. The character of this prisoner at the bar is not attacked except by the evidence in this case. You must assume that he is a man of good character; there is nothing against him except the evidence tending to show that he is guilty of the crime charged here. The People have got to make out a clear and satisfactory case: no man should be deprived of his liberty by the verdict of his peers except upon satisfactory evidence. The law says that he must have the benefit of any reasonable doubt, but that ~~doubt~~ does not mean that the People must make out a case beyond all possible doubt; a reasonable doubt is something more than a conjecture, something more than a mere surmise; it must have some foundation in good common sense, and it exists where the evidence introduced by the People is not quite sufficient, in the judgment of the jurors, to be convincing, or where the evidence introduced in favor of the defendants is of such a character as to leave some room for a doubt. Now, in the

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case at bar, there being no evidence introduced by the defendant, I charge you a principle of law, which is embodied in the Code: You must draw no inference adverse to the accused because he has failed to testify in his own behalf. Sometimes jurors, who have not had a very wide experience, and of some of whom better things might be expected, judging from results, are inclined to believe that because an accused person does not come to the stand and make some explanation, or tell his own story about it, that he is afraid to come, and that if he did come and make such a statement, that it would not be beneficial to him, and, therefore, he must be guilty. That is not so. When you are sworn, you swear to render a verdict according to the evidence; that means what the witnesses say here upon the stand, and the record evidence that may come before you in the way of exhibits, which become part of the evidence.

This case at bar is a case of circumstantial evidence, as most cases are as you have already learned from your experience. Circumstantial evidence is often the safest and many of the best and soundest convictions are based upon it, entirely and exclusively. This case, being one of circumstantial evidence, the question for you to determine is this: Do the circumstances disclosed

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by the evidence point, without doubt, toward the guilt of the accused? Can you account for the state of facts developed by the evidence upon the theory of the defendants innocence? If you can, as reasonable men, the law says you must do so; you are bound to find out some way, if you can, in the exercise of good common sense, how all these things could have happened and the defendant be innocent, and if you can do that, the defendant is entitled to be acquitted: that is true in all cases of circumstantial evidence. If these collateral facts, as they are termed, point with certainty toward the commission of the offense by the accused, and you so feel satisfied, then it is your duty to convict the accused of the offense charged. The theory of guilt must be to the exclusion of every other reasonable hypothesis. That is the law of circumstantial evidence, and you must not lose sight of it in deciding this case. <sup>here presented</sup> The question is one of the sufficiency of evidence. There is no dispute really about the facts; I should rather say there is no contradictory evidence; there is no dispute about what the evidence is; the witnesses agree substantially as to what occurred; there is some issue raised as to the extent of the burning, which I shall speak of particularly in a moment.



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Assuming what these witnesses state to be true, ( and their statements are not contradicted; and unless you see in their manner of telling them something that justifies you in discrediting what they state, you must assume what they state to be true), does the condition of things established by the evidence justify the inference that the fire was set by the defendant at the bar and his associate, or either of them.

"The burning of a building under circumstances which show beyond a reasonable doubt that there was no intent to destroy it is not arson"

The charge here is that the defendants feloniously, wilfully and maliciously did set on fire and burn a dwelling house of one Jacob H. Green, there being some human being in the house at the time, to wit, one Alvina Kern. The second count in the indictment alleges that the house was the house of John Ecker. There is no question made about the ownership or occupancy.

Your verdict will be guilty, as charged in the indictment, of an attempt to commit the crime of arson in the first degree, or not guilty.

"A person who wilfully burns or sets on fire either a vessel, car or other vehicle, or a building, structure or other erection, which is at the time insured a-

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gainst loss or damage by fire, with intent to prejudice the insurer thereof, is guilty of arson in the third degree"

This indictment does not charge that the firing of this building was with intent to prejudice the insurer. The evidence with reference to the insurance, or with reference to the claim made for insurance after the fire, has been admitted for the purpose of disclosing some motive on the part of the accused to set the fire. But you will bear in mind that the charge is the wilful and malicious setting on fire of a dwelling occupied by some human being, and you must be satisfied that there was an intent to destroy the building, otherwise there can be no conviction of arson in the first degree. The crime is regarded of the serious nature, which I have heretofore described, because there is danger of its involving the taking of life. The loss of life is not likely to be effected without at least a partial destruction of the building itself, and hence the particular requisites to which I have directed your attention before there can be a conviction of this particular offense. The evidence must satisfy you that there was an intention on the part of the accused to destroy the building, otherwise there can be no conviction. There

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can be no conviction of arson in the first degree unless the evidence satisfies you that some part of the realty was destroyed. Now, a very small part is sufficient. It has been held that the destruction by fire of small parts of the fiber of the wood constituting any part of the building was a sufficient burning. The law don't demand that an incendiary, that a criminal bent upon the commission of this crime, shall succeed in burning the building to the ground, or that he shall succeed, by burning the building, in taking the lives of one or more of his fellow-beings; his act is complete, when, with intent to destroy an occupied building in the night time, a person wilfully and maliciously sets fire to it, and any portion, however small, of the realty is consumed by fire. Charring to the depth of one-eighth of an inch or destruction of any part of the fiber is a sufficient burning. The question is an open one here as to whether the floor, which beyond all question would be regarded as part of the realty, was burned. Two witnesses state that it was, and those who were there after it was cut out state that they saw no evidence of the charring on the floor. The witnesses all agree, however, that the shelving was more or less burned, and I think I will charge you, in order to meet the issue fairly and squar-

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ly, and not to make an open question for you to determine, that the shelving was a part of the realty, and if you find that that was burned in the manner described, then there was a sufficient burning to constitute the crime, so far as that <sup>element</sup> ~~limit~~ was necessary to constitute it.

Now, there was a fire at these premises, No. 2908 Third Avenue, and it was there at the time charged in the indictment, and there was more or less personal property destroyed, and the defendant on trial, and the co-defendant were the occupants and lessees of a store and owned the property that was damaged and destroyed. What is there that tends to associate them with the commission of the crime? We will come down now to that important branch of the case, which is the evidence that tends to associate this defendant with the commission of the act or acts that it is claimed constitute the crime with which he is charged. He was there that night; it was his store; he had a right to be there; Mrs. Kern, one of the witnesses, says that at least twice, and on one occasion she stated three times, one of the defendants came out of the back door into the hall, passed around through the hallway of the house to the street, and then entered the front door. The theory of the



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People is that that is somewhat unusual, but it may have been in the discharge of his avocation. It is a circumstance to which your attention is especially directed by the Prosecution; that while one of them made this little circuit that the witness described, the other defendant stood in the front of the store upon the sidewalk and very near the front door. The store was closed that night, but it does not appear but what it was closed every night. There is nothing unusual in closing a store at night; there is nothing suspicious in that circumstance itself. There is an intimation here, and perhaps more than an intimation, and it will be your duty to determine what is disclosed by the evidence of Mr. Fitzsimmons, the owner of the property, that on this particular night the store was closed more effectively than usual, that is, the shades were down, or the blinds, as he called them in the early part of his testimony; the shades were pulled down tight and everything was dark; the gas in the cellar was turned off; it had to be turned on before they could get any light in the store; the stove was very hot, the fire burning with considerable force, and this was the condition of things when the fire was discovered, the defendants having been seen about there a few minutes before that, or at least within half

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an hour before that. The fire is discovered and they are not there. Then there is this circumstance, as testified to by some of the witnesses, that the goods had the smell about them of kerosine. Some of the witnesses detected it, and others were unable to. Some were positive as to the odor and as to its presence on the goods. Mrs. Kern stated that after she was in the hall observing the movements of the defendants, which she described, she went up stairs, and going up stairs she smelled kerosine; she had a lamp in one room burning, and there was kerosine used among the other tenants in the house, and that might have happened without it coming from the store. But if this witness Ray is correct when he says that there was kerosine upon the goods, and there is no evidence to show that it was there by accident, it did not belong there. It does not appear that the goods were goods of a character that were likely to send forth the odor of kerosine, or that it was inherent in their construction or manufacture or make up. How did the kerosine get there? If these young men were in the store a few minutes before the fire started, and that kerosine was upon the goods, would not they be likely to know something about it? The fire was burning at two places so far apart that the theory of all the witnesses is

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that it could not have been communicated from one spot to the other by natural means. If it started from natural causes, combustion, or it started in two places about the same time, or if it started from extreme heat of the stove, one of the fires being near the stove, there is no theory disclosed that would account for the communication of that fire that started at the stove, if it did start there first, to the other spot at which it was seen blazing. These two fires in two different parts of the store at this particular time, and this smell of kerosine, and the presence of the proprietors of that store, and the fact that they must have locked up the store a few minutes before when they went away--- all these circumstances, it is claimed, indicate beyond doubt that these defendants must have known the condition of things there when they left the store, and that having left such a few minutes before, that they must have started these fires before they left, and that, therefore, they were wilfully and knowingly the acts of the accused, <sup>and a</sup> person being presumed to intend the natural consequences of his acts, they must be presumed to have intended to destroy the building. It is claimed that the motive was to procure the insurance; that is the explanation of this grave and serious act, which was

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likely to result in such serious consequences--probably in the loss of one or more lives. Now, gentlemen, do you feel satisfied that this defendant not only knew the condition of things there, but that he either put it there or aided or abetted in putting the kerosine there and starting these fires? He is entitled to the benefit of any fair or reasonable doubt. If you have a doubt about the burning being sufficient to come within the law, or of there being sufficient proof that there was a destruction of the realty in order to constitute the crime of arson in the first degree, but you are satisfied that some act was done by the defendant with intent to commit the crime of arson in the first degree and tending but failing to effect its commission, then you may convict the defendant of an attempt to commit that crime.

I have gone over the whole case quite fully, more fully than I expected to at the start, but it is an important matter. If this man is guilty, the interests of the whole community demand that he should be convicted, and if he is innocent, he is certainly entitled to an acquittal. It is a horrible charge to make against any man. It demands a careful investigation at your hands; you will give him the benefit of every fair and reasonable doubt, and look at the transaction in the



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light of his good character, because there is nothing against it except the evidence in this case.

MR. PURDY: There is no evidence here that the place was over-insured.

THE COURT: All the evidence in reference to the insurance, of course, is before you. If you see in that the disclosure of any motive, why you must come to such conclusion in reference to it as you think proper. So far as appears, as I said when the evidence was closed, the property was not over-insured, and the insurance was reasonable and right. I don't think there is anything in the evidence to indicate that they did not have on hand the stock of goods claimed; but it is claimed that it was insured for \$2,500, and that the motive with which they fired the building was to get that insurance.

MR. DAWSON: I ask your Honor to instruct the jury that there is no evidence here that the property was worth anything.

THE COURT: Yes.

MR. PURDY: And that a check for \$750. was paid. I ask your honor to charge that it must not weigh against the defendant that he made a compromise with the insurance company.

THE COURT: The jury must give such weight to

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those circumstances as they think they deserve and are entitled to receive; if they don't indicate any guilt, you must not draw any inference of guilt; such circumstances you must give such weight to as they are entitled to receive. The case is with you.

The jury retire, and after about an hours deliberation, returned to court.

THE COURT: The exhibits for which you have asked are here. You may take them with you, the diagram, the inventory and one of the policies of insurance--a policy for \$1,500; the policy for \$1,000 was ~~not~~ put in evidence, and it was taken away supposing it would not be needed; the photographs were never put in evidence; there is no objection, I believe, on the part of either counsel to your seeing them, but they really show nothing.

A JUROR: Was there any difference in the date of the policy taken away and the policy which we have here?

DEFENDANTS COUNSEL: There was a difference in the dates; one was taken out much earlier than the other; that is my impression; I have no objection to the juror taking the photographs that were offered for identification, but they really don't show anything at all.

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THE COURT: If the jury would like the other policy, I will send an officer for it.

A JUROR: Could we hear from your honor on this: In order to give the prisoner the benefit of an acquittal, what must this jury be satisfied of?

THE COURT: In order to give the prisoner the benefit of an acquittal, it must be satisfied that there is a failure of evidence to prove that he is guilty.

A JUROR: I would like to ask one question: Some of the gentlemen asked me in the course of the argument, what I would call a reasonable doubt, and I told them that it would <sup>be</sup> a doubt which I did not have to pull by the hair to make it; a doubt which suggested itself in my mind from a consideration of all the evidence was what constituted a reasonable doubt.

THE COURT: That is a good definition, I think; if you are reasonably certain of a thing, there is no room then for a reasonable doubt; there cannot exist in respect to the same matter a reasonable certainty and a reasonable doubt; you must have one or the other; I have stated a reasonable doubt is something more than a conjecture; you must apply to the case the exercise of common sense and good judgment, and if there is a failure to convince, a failure to bring conviction satisfactorily

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to your mind, then there is a doubt.

MR. DAWSON: The adjuster has gone down to his office to get the other policy of insurance and he will return in fifteen minutes.

A JUROR: One of the jurors asked to have the photograph brought to us because a question came up as to the exact position of the stove in the store and the exact position of the two fires; I would like to know if the stove was between the two fires in the front part of the store or behind?

THE COURT: As I understand the evidence, one fire was near the stove and the other fire was some distance away from the stove; the whole thing is shown in the diagram.

MR. DAWSON: The photograph does not show it; I was unwilling to put anything in the evidence which furnished no information.

THE COURT: One fire was eight feet from the door; if there is any of the evidence you want to have read the stenographer will read it. As I recollect it, one of the witnesses brought the fires as near together as eight feet, and some put them as far apart as 18 or 20 feet; the bulk of the evidence bring the fires certainly fifteen feet apart. One of the fires was near the



POOR QUALITY  
ORIGINAL

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Inventory of *Swanwick* *Ad Caplan*, \$2908. 3<sup>rd</sup> *Ad N.Y.C.*

| No. | QTY.    | Description.                       | SOUND<br>VALUE. | DAMAGE<br>THEREON. |
|-----|---------|------------------------------------|-----------------|--------------------|
| 1   | 3       | Gents Shirts                       | @ .58           | 1.74               |
| 2   | 13      | " " und                            | .140            | 5.20               |
| 3   | 8       | " " "                              | .52 1/2         | 4.20               |
| 4   | 34      | " " "                              | .140            | 14.80              |
| 5   | 203     | Ball Crochet Cotton                | .02 1/2         | 5.07               |
| 6   | 8       | Gents Shirts                       | .52 1/2         | 4.20               |
| 7   | 173     | Gds Wigans                         | .89             | 15.57              |
| 8   | 6       | Gents Shirts                       | .52 1/2         | 3.15               |
| 9   | 14      | " " "                              | .40             | 5.60               |
| 10  | 2       | Ladies Shawls                      | 4.-             | 8.-                |
| 11  | 144     | Gds Toweling                       | .08             | 3.57               |
| 12  | 3       | Overalls + jumpers                 | .70             | 2.13               |
| 13  | 16      | Shirts + drawers                   | .25             | 4.-                |
| 14  | 80      | Scar " "                           | 0.-             | 10.-               |
| 15  | 2       | Bed spreads                        | .005            | 2.00               |
| 16  | 3       | Ladies Rubber Circulars            | .50             | 4.50               |
| 17  | 11      | Childs Shirts + drawers            | .20             | 2.20               |
| 18  | 49 1/2  | Gds - <i>White</i> <i>franklin</i> | .07             | 3.46               |
| 19  | 8       | Bay Table cloth                    | 1.45            | 1.45               |
| 20  | 7       | German linen table cloth           | .70             | 4.90               |
| 21  | 36      | Gds table cloth                    | .25             | 6.50               |
| 22  | 131 1/2 | " Cambric                          | .09             | 12.10              |
| 23  | 48      | " Tickling                         | .11             | 5.28               |
| 24  | 61      | " " "                              | .07             | 3.49               |
| 25  | 50 1/2  | " Cambric                          | .07 1/4         | 3.64               |
| 26  | 5 1/2   | " Muslin                           | .08             | 4.58               |
| 27  | 2       | " Cambric                          | .07             | 3.50               |
| 28  | 103 1/2 | " " "                              | .08             | 3.48               |
| 29  | 404     | " Unbl. Muslin                     | .06             | 3.44               |
| 30  | 76      | " " "                              | .07 1/2         | 5.70               |
| 31  | 2       | Bay table cloth                    | .70             | 2.35               |
| 32  | 6       | Ladies Neck shawl                  | .52 1/2         | 3.15               |
| 33  | 142 1/2 | Best. Linen Napki                  | .06 1/2         | 2.64               |
| 34  | 26      | Gds <i>franklin</i>                | .08 1/2         | 2.08               |
| 35  | 000     | " " "                              |                 | 9.75               |
| 36  | 1       | German linen table cloth           |                 | 1.50               |
| 37  | 1       | Red                                |                 |                    |
| 38  | 6       | Flannel shirts                     | 1.25            |                    |
| 39  | 5       | Jersey                             | 1.50            |                    |

\$ 194.08

POOR QUALITY  
ORIGINAL

0233

|     |        |                       |         |        |
|-----|--------|-----------------------|---------|--------|
| 410 | 7      | Jumpers & overalls    | .50     | 3 50   |
| 411 | 36     | Yds Calico            | .05 1/2 | 1 43   |
| 412 | 14     | " Table Linen         | .25     | 3 50   |
| 413 | 10     | " Shaker flannel      | .09     | 90     |
| 414 | 35 1/2 | " Canton              | .08 1/2 | 3 01   |
| 415 | 32 1/2 | " Shaker              | .09     | 2 92   |
| 416 | 30     | "                     | .11     | 3 30   |
| 417 | 39     | " Canton              | .08 1/2 | 2 47   |
| 418 | 1      | Scar. Shirt & drawers | 1.03    | 1 03   |
| 419 | 20     | Yds Red Fickling      | .07     | 3 40   |
| 50  | 30     | " Jeans               | .11     | 3 30   |
| 51  | 7      | Gents Unl. Shirts     | .37 1/2 | 2 63   |
| 52  | 59     | Yds Cashmere          | .26     | 15 34  |
| 53  | 118    | "                     | .26     | 30 68  |
| 54  | 60     | " Corset Jean         | .08     | 4 80   |
| 55  | 413    | " Cashmere            | .30     | 123.90 |
| 56  | 50     | " Trico cloth         | .38     | 19.38  |
| 57  | 118    | " Cashmere            | .27     | 31.86  |
| 58  | 8      | " Red Flannel         | .32 1/2 | 2 60   |
| 59  | 180    | " Cambric             | .05 1/2 | 9 90   |
| 60  | 112    | Boys Braid            | .07     | 2 24   |
| 61  | 16     | Boys Paper Collars    | .20     | 3 20   |
| 62  | 43     | Fine Combs            | .05     | 2 15   |
| 63  | 1      | Box Sundries          | .75     | 75     |
| 64  | 25     | Combs                 | .07     | 1 75   |
| 65  | 16     | Boys Combs            | .08     | 1 28   |
| 66  | 56     | Mens Collars          | .08     | 4 48   |
| 67  | 1      | Box Ladies            | .07     | 84     |
| 68  | 11     | pr Cuffs.             | .02 1/2 | 2 48   |
| 69  | 1      | Box China Button      | 2.00    | 2 -    |
| 70  | 1      | " Collar Buttons      | 3.00    | 3 -    |
| 71  | 1      | " Sundries            | 5.00    | 5 -    |
| 72  | 11     | pr Suspenders         | .09     | 99     |
| 73  | 10     | "                     | .37 1/2 | 3 75   |
| 74  | 12     | "                     | .12     | 1 44   |
| 75  | 126    | " Braid               | .03     | 3 78   |
| 76  | 27     | " Ladies Cuff         | .10     | 2 70   |
| 77  | 6      | Boys Cologne          | .03     | 18     |

\$ 318.96

POOR QUALITY  
ORIGINAL

0234

|     |        |                       |         |        |
|-----|--------|-----------------------|---------|--------|
| 410 | 4      | Jumpers overalls      | .50     | 3 50   |
| 411 | 36     | Yds Calico            | .05 1/2 | 1 43   |
| 412 | 14     | " Table Linen         | .25     | 3 50   |
| 413 | 10     | " Shaker flannel      | .09     | 90     |
| 414 | 35 1/2 | " Canton              | .08 1/2 | 3 01   |
| 415 | 32 1/2 | " Shaker              | .09     | 2 92   |
| 416 | 30     | "                     | .11     | 3 30   |
| 417 | 39     | " Canton              | .08 1/2 | 2 47   |
| 418 | 1      | Scar. Shirt & drawers | 1.03    | 1 03   |
| 419 | 20     | Yds Red Fickling      | .07     | 3 40   |
| 50  | 30     | " Jeans               | .11     | 3 30   |
| 51  | 7      | Gents Und. Shirts     | .34 1/2 | 2 03   |
| 52  | 59     | Yds Cashmere          | .26     | 15 34  |
| 53  | 118    | "                     | .26     | 30 68  |
| 54  | 60     | " Corset Jean         | .08     | 4 80   |
| 55  | 413    | " Cashmere            | .30     | 123.90 |
| 56  | 50     | " Trico cloth         | .38     | 19.38  |
| 57  | 118    | " Cashmere            | .27     | 31.86  |
| 58  | 8      | " Red Flannel         | .32 1/2 | 2 60   |
| 59  | 850    | " Cambric             | .05 1/2 | 9 90   |
| 60  | 112    | Pcs Braid             | .07     | 2 24   |
| 61  | 16     | Boxes Paper Collars   | .20     | 3 20   |
| 62  | 143    | Pine Combs            | .05     | 2 05   |
| 63  | 1      | Lot Sundries          | .75     | 75     |
| 64  | 25     | Combs                 | .07     | 1 75   |
| 65  | 16     | Beards Combs          | .08     | 1 28   |
| 66  | 56     | Mens Collars          | .08     | 4 48   |
| 67  | 1      | dz Ladies             | .07     | 84     |
| 68  | 11     | pr Cuffs              | .02 1/2 | 2 48   |
| 69  | 1      | Lot China Button      | 7.-     | 2 -    |
| 70  | 1      | " Collar Buttons      | 3.-     | 3 -    |
| 71  | 1      | " Sundries            | 5.-     | 5 -    |
| 72  | 11     | pr Suspenders         | .09     | 99     |
| 73  | 10     | "                     | .34 1/2 | 3 75   |
| 74  | 12     | "                     | .12     | 1 44   |
| 75  | 126    | " Braid               | .03     | 3 78   |
| 76  | 27     | " Ladies Cuff         | .10     | 2 70   |
| 77  | 6      | Bottle Cologne        | .03     | 08     |

\$ 318.96



POOR QUALITY  
ORIGINAL

0235

(-3)

|     |        |                       |        |         |
|-----|--------|-----------------------|--------|---------|
| 78  | 104    | Ladies Linen Collars  | .08    | 8 32    |
| 79  | 144    | Pr. Cuff              | .15    | 6 60    |
| 80  | 168    | Gents Linen Collars   | .08    | 13 44   |
| 81  | 8      | pr. Suspenders        | .25    | 2 -     |
| 82  | 3      | Gents Neck ties       | .50    | 1 50    |
| 83  | 6      | Shawls                | 1 25   | 7 50    |
| 84  | 3      | Table cloths          | 0.25   | 3 75    |
| 85  | 16     | Yds. Tickung          | .07    | 2 72    |
| 86  | 3      | Table cloth           | .95    | 2 85    |
| 87  | 28     | Towels                | .29    | 8 02    |
| 88  | 1      | Yds Table Linen       | .115   | 1 15    |
| 89  | 8 1/2  | " Crossbar            | .11    | 0 93    |
| 90  | 8      | " Cambric             | .08    | 64      |
| 91  | 3      | Red spreads           | 1 25   | 3 75    |
| 92  | 40     | Yds. Crossbar         | .08    | 80      |
| 93  | 146    | " Indigo Blue         | .07    | 10 22   |
| 94  | 9      | " Blue Flann.         | 2 1/2  | 2 66    |
| 95  | 7 3/4  | " Trico               | .38    | 2 7. 93 |
| 96  | 58 3/4 | " Checked Dress goods | .08    | 80 46   |
| 97  | 120    | " Gingham             | 8 1/2  | 11 40   |
| 98  | 14     | Gents Unl. Shirts     | .20    | 80      |
| 99  | 30 1/2 | Yds. Drills           | .08    | 2 76    |
| 100 | 10     | Gents Shirts          | .37    | 3 70    |
| 101 | 5      | Unl. Shirts           | .37    | 1 83    |
| 102 | 12     | "                     | 1 1/2  | 3 10    |
| 103 | 1      | Lot Shandies          |        | 60      |
| 104 | 40     | Yds Drill             | .08    | 3 20    |
| 105 | 46     | " Crossbar            | .09    | 4 14    |
| 106 | 30     | " Toweling            | 10 1/2 | 3 26    |
| 107 | 2 1/2  | " Blue Flann.         | .35    | 88      |
| 108 | 89     | " Toweling            | .26    | 2 34    |
| 109 | 37     | "                     | .08    | 30      |
| 110 | 3      | " Table Linen         | .10    | 84      |
| 111 | 12     | " Dress goods         | .07    | 2 34    |
| 112 | 26     | "                     | .09    | 7 98    |
| 113 | 833    | " Cambric             | .06    | 2 88    |
| 114 | 36     | " Muslin              | .08    | 6 -     |
| 115 | 87     | " Table Linen         | .50    | 3 00    |
| 116 | 38     | " Gingham             | .08    |         |

7 083.01



POOR QUALITY  
ORIGINAL

0236

14

|        |     |                        |         |                |
|--------|-----|------------------------|---------|----------------|
| 117    | 8   | Sear. Shirts & Drawers | \$ 0.50 | 17. —          |
| 118    | 28  | Shirts and Drawers     | .50     | 14. —          |
| 119    | 20  | Pr Ladies Hose         | .30     | 6. —           |
| 120    | 20  | " Gents "              | .25     | 5. —           |
| 121    | 19  | " Cotton "             | .07     | 0.33           |
| 122    | 10  | " Ladies "             | .09     | 90             |
| 123    | 31  | " Children "           | .20     | 6.20           |
| 124    | 260 | Spool Cotton           | .042    | 10.70          |
| Minkes | 3   | pr Children Hose       | .08     | 24             |
|        | 3   | " Ladies "             | .10     | 30             |
|        | 5   | " Gents "              | .17     | 60             |
|        | 1   | Sticks                 | .05     | 10             |
|        |     |                        |         | <u>\$58.37</u> |

Recapitulation. (stock found)

|       |    |                 |
|-------|----|-----------------|
| Folio | 1. | \$194.08        |
| "     | 2. | 310.96          |
| "     | 3. | 183.11          |
| "     | 4. | 58.37           |
|       |    | <u>\$747.52</u> |

0237

285752

0238

|                            |          |                 |
|----------------------------|----------|-----------------|
| 5 doz Ladies Shirts @      | \$3.50   | \$17.50         |
| 7 1/2 " Childrens "        | 6-       | 45-             |
| 20 1/2 " Childrens " ad.   | 2.02 1/2 | 45 69           |
| 10 " Mens Scarfs           | 2.-      | 20 -            |
| 8 " " "                    | 3.25     | 26 -            |
| 5 " " "                    | 6.-      | 30 -            |
| 8 " Boys " "               | 1.75     | 14 -            |
| 3 " Opera Ties             | 3.37 1/2 | 10.12           |
| 14 " Suspenders (silk web) | 1.75     | 19.00           |
| 7 " " "                    | 2.25     | 15.75           |
| 15 " " "                   | 1.10     | 16.50           |
| 15 " " children            | 60       | 9 -             |
| 18 Rubber Cloaks           | 3-       | 36 -            |
| Notions.                   |          | 250. -          |
| 10 Fancy Table Cloths      | 1.45     | 14.50           |
| 14 " " "                   | .70      | 12.60           |
| 31 10/12 white "           | .85      | 26.35           |
| 28 8/12 " "                | .68      | 19.04           |
| 34 8/9 " "                 | .57      | 21.09           |
| 24 25/8 Anty red "         | .80      | 19.20           |
| 11 8/14 " "                | 1.-      | 11. -           |
| 8 12/14 " "                | 0.75     | 14. -           |
| 38 Old Table Linen         | 25       | 9.50            |
| 23 " Bro. "                | 25       | 5.75            |
| 35 " White " "             | 35       | 12.25           |
| 1 doz Jumpers              | 6-       | 6 -             |
| 1 1/2 " Overalls           | 6-       | 9 -             |
| 14 Bed spreads             | 2.50     | 47.50           |
| 5 doz Linen Towels (ind.)  | 2.20     | 9 -             |
| 10 doz Towels 320 yds      | .09      | 28.80           |
| 1 " Jean 60 "              | .08      | 4.80            |
|                            |          | <u>\$ 28.94</u> |

### Recapitulation

|         |                   |
|---------|-------------------|
| Folio 1 | \$ 2087.52        |
| " 2     | \$ 828.94         |
|         | <u>\$ 3018.46</u> |



0239

66C  
Le 11/84  
Sondewick & Kaplan  
No. 2408 1st Ave  
New York City

Inventory  
of  
Stock

Office Copy  
Fire Feb 16/84

66322

2/10/84

H. A. LANDGRAFF & CO.  
ADJUSTERS OF FIRE LOSSES,  
No. 178 Broadway, N.Y.



0240

*Judge's  
Charge in the  
Case  
continued*

convicted, I do not care what his nationality; if he is innocent, he ought to be acquitted, I do not care what his faith or belief is. The question for you to determine upon the evidence is whether he is guilty or innocent, eliminating everything from this case which would make prejudice or sympathy. I have pointedly drawn your attention to this because there has been so much said about it in the speeches of Counsel to the Jury on both sides. The District Attorney as well as Counsel for the defence disclaim any desire on the part of the one or the other -- they do not want to convict this man on that account. If he is not guilty the District Attorney does not want you to convict him; if he is guilty his duty requires him to ask a conviction at your hands and the responsibility has been thrown upon you by the People. So that in this case when you retire you will take up the evidence and treat it fairly and considerately, without any prejudice for him or any sympathy and see if you can ascertain from the review whether he wilfully and maliciously set this fire in this building.

Now the Counsel for the Defendant has stated in your presence in arguing questions of law that if this man set the fire it was probably from his standpoint to defraud the insurance company and that he did not intend to set fire to the building but he did intend to set fire to the goods. Now the People on the other hand claim that every sane man must be presumed to intend the natural consequences of his acts. You must ascertain what was his intent. If you come to the conclusion that they set the fire and they intended to demolish the building and

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the goods for the purpose of defrauding the insurance company, if they intended to burn both, why then so far as that element is concerned, because he had only intended getting his insurance money, would not prevent its being arson in the first degree. But of course if you come to the conclusion from the evidence that he intended to burn up all the goods in this store without burning any part of the building at all, that he had that negative intent, then you could not convict him of the crime of arson in the first degree or any other crime under this indictment-- that is, you must find that his intent was to maliciously and wilfully set fire to this building. And the People claims that every man must be presumed to intend the natural consequences of his own acts -- therefore they claim that he could not have set fire to the goods without necessarily injuring the building and setting some portion of the building on fire. I have not gone over all the points, it is not necessary to do so. There was a great many witnesses examined to establish the fact that there was a fire and the time of it. Well, in as much as they were not disputed I need not rehearse their evidence to you and the amount of burning which was there. The only other thing perhaps which I ought to draw your attention to is the insurance. The People in this case claim that the insurance was for \$2500, that the policy of insurance shows that there was \$2500 worth of insurance on these goods and they claim that these parties did not have any such amount of property there; and there is some evidence that after the fire all the goods which were visible amounted to \$750 and they claim that the evidence

0242

shows that there was not sufficient burned up to have made the difference between \$750 and \$2500, whereas the claim on the part of the Defendant is that that may be perfectly true that there was \$750 worth of goods visible, but there is no evidence to show that there was not losses and valuable goods destroyed in the debris in the room which could not be seen, to have made up the amount of the insurance. Now you have heard the evidence on both sides of this question of the insurance. You should take it and consider it and determine from all the evidence whether you think that it fairly and reasonably establishes that there was not over insurance or any claim greater than what the law allowed. As I understand, the Defendant claims in this case that the only formal claim which was made was about \$750 and that the evidence shows that there was that much damage, and that from this schedule wherever it came from was not the formal claim -- it only shows that they claimed what they actually lost. The People claim that this insurance business is not an element of the crime, it was only offered on their part as a motive. If you can find a motive for committing the crime it is often of great assistance in arriving at the conclusion whether the party is guilty. It is not essential that the People should find a motive or establish a motive, but if they can do that and show that there was a motive on the part of these Defendants to cause the fire, it is their right to do so and they claim to have put before you certain evidence which will aid you the more readily in coming to a just and fair conclusion.

The Defendant has offered evidence as to character. The law presumes that every Defendant brought

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before this bar has a reasonably good character but it does not stop there, it gives him the right to open the door and challenge the investigation of his character. That door is not open to the People however until he himself first offers evidence showing that his character is good; the minute he opens that door then it is wide open and the People have the right to investigate it to its fullest extent. In this case the Defendant has offered witnesses, persons who have known him, and he claims naturally the only persons whom he could call were those with whom he did business; they state that so far as they have known the Defendants that their characters are above reproach. That is a circumstance in the case which you should weigh in coming to a conclusion. If the People had shown that their character was bad, if they could have shown they were not worthy of credit and that their character for honesty was bad, it would have been a guilty circumstance against them; therefore you must take the evidence as to character and give it such weight as you think it is entitled to in conjunction with the other evidence in the case. When you go to your room to decide this case if you have a reasonable doubt as to whether these Defendants are guilty of this offence, a doubt predicated upon the evidence, that is their property and they should not be convicted; they are entitled to the benefit of every fair and reasonable doubt upon the evidence, and if you have such a doubt arising upon the evidence, the prisoner should be acquitted -- the other one is not before you. We have been nearly a week trying the case, I do not know how long it was being tried before



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the other jury but the other jury disagreed, so the counsel tell me, I did not try the case. I think that is an additional reason why you ought to be very cautious and circumspect and careful to make no mistrial if you can help it. The criminal business of this county now is accumulating with such rapidity that if we should undertake to try and re-try cases half a dozen of times, I don't know what would be the result. We have not sufficient judges, nor time nor room to do it; therefore, juries ought not to be capricious, ought not to do as I have heard of some jurymen doing, going off in a corner and saying, "we wont discuss it", saying their mind is made up and if the whole world was brought to bear upon them that would not change them. They could not have been reasonable men. Jurors ought to turn the evidence over and see if they cannot reconcile it. No jurymen should stifle his conscience or judgment, no jurymen should pronounce an innocent man guilty unless his conscience and his judgment convinced him that he was guilty.

But you as considerate men should try to come to a conclusion, try to reason and look at the evidence carefully and see if you can reconcile your differences with your conscience and judgment and I hope that in this case you will do so in the interests of the Defendant as well as the people -- that you will try to arrive at a conclusion one way or the other so that the County need not be put again to the expense of going over this case.

I have not gone over all the evidence, I think I have gone over sufficient of it, I have tried to draw your

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attention to what seemed to me to be the evidence bearing upon the questions of fact in dispute; where there was no dispute on the facts I did not say anything more than to draw your attention to the conceded facts. I have only rehearsed the evidence of the witnesses in a general way; you will remember the whole of it. Take the case and try to come to a conclusion which will be just to the People and to the Defendant.

0246

M. M. Langhlin

0247

COURT OF GENERAL SESSIONS.

.....X  
THE PEOPLE, &c., :  
vs. : ARSON.  
PHILLIP CATLIN, SIMON SAMBOWITCH: :  
.....X

Sir:-

Please take notice that I will move in Part I of the  
Court of General Sessions on Monday, April 22nd, 1889, to  
fix a day for trial in the above case.

Yours Respectfully,

Purdy & McLaughlin,

Defendants' Attorneys,

No 280 Broadway,

New York City.

To

Hon. John R. Fellows,

District Attorney,

New York City.



0248

COURT OF GENERAL SESSIONS.

THE PEOPLE, &c.,

against

PHILLIP CATLIN, SIMON SAMBOWITCH

-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-

N O T I C E .

-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-

Purdy & McLaughlin,  
Defendants' Attorneys,  
No. 280 Broadway,  
New York City.



0249

DISTRICT ATTORNEY'S OFFICE,  
City and County of New York.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

*James Marshall*  
*Fire Marshal*

vs.

*Simon Sandvick*

*Philip Caplan*

Offence *Drunk*

Dated *March 28* 188*9*

Witnesses, *Jacob H. Kern 2908 3<sup>d</sup> Ave*  
*William Kern*

No. *Owen Fitzsimmons* Street  
*John Eckert*  
*Frank Haenigle*

No. *Geo H Murray 33<sup>d</sup> Street*  
*Joe C. Carr*

*Capt. Hugh Kittston Engine 41*  
*50<sup>th</sup> and 3<sup>d</sup> Ave*

*Mathias Barings Truck 17*  
No. *Peter Sloane 142 2<sup>d</sup> Ave* Street

*James Ray - Patrol No. 4*  
*Henry A. Landgraf 178 Broadway*

*Jack Frank* } *Fire Marshal's Bureau*  
*Chas. Sank* }  
*Samuel W. McGill* } *157 East 67<sup>th</sup> St*

0250

30

J. Sandowitch

Fire Department of the City of New York.  
BUREAU OF FIRE MARSHAL.

(Form No. 3.)

(157 & 159 EAST 67th STREET.)

State of New York,  
City and County of New York, } ss.

of No. \_\_\_\_\_

being duly sworn, deposes and says: \_\_\_\_\_

James L. Wells -

Did you go to him for the purpose?

The first time, yes -

Did he or any one make a survey of the  
stock in your store?

I can't say - I don't know -

Did you get all the insurance you applied  
for?

The first time we got only \$1000, we applied  
for \$1500; the second time we got  
\$1500<sup>00</sup>, all we asked for -

You have a bank account?

Yes, in the Bowery National Bank -

How has your balance been in the bank  
within the last few weeks?

It has been low -

Did it ever amount to \$500<sup>00</sup> during the  
last few weeks?

No -

Simon Sandowitch

Recalled

Were you in the hall-way at any time on  
Saturday evening?

I can't say -

Did you go out of the back door leading from  
the back room into the hall-way at any  
time on Saturday evening?

Subscribed and sworn to, this 19th

1889, before me.

day of

Michaelis  
Michaelis



0251

I can't say - I can't remember

Simon Sordovitch

Recalled March 1<sup>st</sup>, S. Sordovitch testified  
as follows:

Your partner testified the other day that  
he and you contributed \$500<sup>00</sup> <sup>each</sup>, total  
capital of the firm, and that he con-  
tributed \$800<sup>00</sup> in goods & you \$900<sup>00</sup>  
in goods - Was that so?

Yes, about that much -

What did you do with the cash?

We bought goods of all kinds to stock the store -

When had you the goods stock you and he  
contributed, before the firm was formed?

In one room - We had been peddlers -

How much of the cash did you deposit?

Three hundred dollars was our first  
deposit -

You say you kept no regular books - What  
books did you keep?

We kept a memorandum book - It was  
left in the store and I have  
been unable to find it -

You can tell me the total amount of your  
purchases made since Dec 17<sup>th</sup>  
last, of stock for the store, and  
the names of the parties from  
whom purchased?

I can, nearly all -

Will you do so?

Will do so -

Simon Sordovitch

Simon Sordovitch

Deposited and drawn from  
before one this 1<sup>st</sup> day of  
March 1889  
J. Sordovitch  
J. Sordovitch



0252

J. Sandowitch

## Fire Department of the City of New York.

BUREAU OF FIRE MARSHAL.

[Form No. 8.]

(155 &amp; 157 MERCER STREET.)

State of New York,  
City and County of New York, } ss.

of No. \_\_\_\_\_

being duly sworn, deposes and says: \_\_\_\_\_

I did not -

On leaving the store what fire and light did  
you leave burning?There was a small fire in the stove and one  
gas jet burning in the back fixture.Did you pull down the blinds of the store, or the  
door and show window, when you left  
at 10 o'clock?

I did -

Was it customary to leave a fire burning in  
your stove on Saturday evening, when  
closing the store -?

I can't say that it was customary -

Was it usual for you to pull down the  
blinds, <sup>as</sup> on Saturday night last?I can't say - I don't know how they were  
on Saturday -

When did you first learn of the fire?

On Monday afternoon at about 2 o'clock -

Were you surprised to hear that there had been  
a fire? I certainly was surprised -Was it not customary for either you or your  
partner to visit the store every Sunday mor-  
ning for the purpose of turning off the fire?

It was not customary - I only did so once -

Do you know whether your partner has done so?

Subscribed and sworn to, this \_\_\_\_\_ day of \_\_\_\_\_

188, before me,

0253

I can't say.

When you look up who carries the keys?

My partner, because he has to open in the morning.

Is there more than one set of keys?  
only one set?

Have you any use for kerosene oil in your business?

I never used any. My partner may have done so in making a fire in the stove.

Had you any kerosene in the stove, for any purpose, on Saturday last?

Not as far as I know.

Did you ever carry the keys?

I may have done so once. I can't say.

Did you carry the keys on last Saturday night?

No Sir!

Have you any idea what took place?  
You are aware that there were two fires in the stove?

I don't know anything of the kind.

When you speak of the keys, do you include the key to the rear door leading into the hall?

That is included. all the keys were together.

Is it usual to keep the door leading into the rear hall unlocked - open?

We never kept it open - I guess it was always locked.

Through what did you obtain your information?

0254

## Fire Department of the City of New York.

## BUREAU OF FIRE MARSHAL.

157, 159 <sup>Form No. 3, 4</sup> ~~157, 159~~ STREET.)State of New York,  
City and County of New York, } ss.Simon Sandowitchof No. 342 Cherry Street, examined by the Firebeing duly sworn, deposes and says: Marshall, being duly sworn

testifies as follows:

What is your name?

Simon Sandowitch.

How old are you &amp; where were you born?

Twenty-three years old, and born in Russian Poland.

You do business at 2908 Third Avenue?

Yes.

You have a partner?

Yes.

What is your partner's name?

Phillips Caplan.

How long have you been doing business there?

About 6 or 7 weeks.

Was your business good?

We could not complain. We made no money  
on our business done at the store. We  
did not expect to do so soon. We made  
an expense and are satisfied with that.

Where did you buy your stock?

At 17 Catharine St., Shidlovsky and Bros; of

H. B. Chaplin &amp; Co.; of Freund, Foris &amp; Co.,

Franklin Street; Rosendorf & Co., Walker St. and  
many places on the East Side.

Can you produce bills of your purchases

made of the parties named above?

I think I can.

Can you produce the original bills?

Subscribed and sworn to, this

188, before me,

day of

Simon Sandowitch  
2908 3rd Ave.

0255

If I can find them in the store I will give them to you.

What was the value of your stock at the time of the fire?

About \$300.00

What insurance took you on it? In what companies?

Twenty-five hundred dollars - One thousand in the Phoenix of Brooklyn, and fifteen hundred in the London, Liverpool & Globe Co.

How much do you owe on the purchases made for the store?

About \$300.00

How much money do you owe besides that?

I owe some money on the peddling business - I can't say how much -

Does that indebtedness amount to \$300.00?

I can't say, it may be more and it may be less.

Had you any books in connection with the peddling business?

We kept no regular books.

Do you owe any borrowed money, any rent, board or other money?

No sir.

What time did you leave your store on Saturday evening?

At about 10 o'clock, or a little before.

Did your partner go with you?

Yes - He went with me - We then closed the store - at about ten o'clock -

Did you return to the store that evening?



0256

*Philip Caplan*

Fire Department of the City of New York.

BUREAU OF FIRE MARSHAL.

(Form No. 3.)

(155 & 157 MERCER STREET.)

State of New York,  
City and County of New York, } ss.

of No.

being duly sworn, deposes and says:

*Keys?*

*I don't think so, unless they broke the windows -  
When you closed up did you lock the front-  
door, or the side door leading into the  
hall-way lock?*

*I locked the front door lock. I only locked the  
front door. ~~front door~~  
Did you have the side door open at Saturday  
evening at any time - the door leading  
into the hall-way?*

*No sir, I guess not -*

*You did not open it - at any time?*

*No sir, I did not -*

*Were you in the hall-way at any time in  
that evening?*

*I had no business to be there that I can  
recollect - I may have been at  
the clock.*

*When you light the fire do you use Kerosene?*  
*No sir -*

*You usually light the fire in the stove?*  
*I do -*

*Had you any Kerosene in the stove for  
any purpose that evening?*

*No sir - we did not need it -*

*Did you use any Kerosene that evening  
for any purpose?*

Subscribed and sworn to, this

188, before me,

day of

0257

I did not.

Are you married?

Yes sir.

Have you children?

I have three.

Have you many callers at the store during business hours?

At some times - a few visitors, perhaps twice or three times a week.

Who was there in the store with you, in the back room, on Saturday evening, besides your partner?

Nobody besides ourselves was there.

Did you return to the store on Saturday evening, after closing it, in presence of your partner, between 9 and 10 o'clock?

No sir.

Was your business in such a condition that you could reasonably hope to pay all your debts?

Yes sir - and there would be something left for us too.

How do you think did that fire occur?

I can't say.

You know that the fire commenced at two points - in the store, independently of one another?

I don't know anything about the fire.

When was the last time you unlocked and opened the door leading into the hall-way from your back

0258

Philip Caplan

Fire Department of the City of New York.

BUREAU OF FIRE MARSHAL.

(Form No. 3.)

(155 & 157 MERCER STREET.)

State of New York,  
City and County of New York, } ss.

of No.

being duly sworn, deposes and says:

Room?

I don't remember.

Did you unlock it on Saturday at all?

No Sir - I did not.

Where do you keep the keys when the store is open?

Always in my pocket.

Have you ever owned a store in New York before?

Not in New York.

Any where else in this country?

None in this country - in Europe I did.

Did you ever suffer any loss from a fire before?

Never before.

When you close the store at night is it customary for you to pull down the blinds on the store window and door?

When we sleep in the store we usually leave the blinds a little up, giving a view into the store - When we did not sleep there we pulled down the blinds - The window blind was always left a short distance up.

How did you leave them on Saturday evening?

The door blind I pulled down - The window

Subscribed and sworn to, this day of

188, before me,

0259

blind was, I suppose, left a little open as usual -

was it customary for you to visit your store on Sunday morning to put out the fad?

Yes - I never did -

You have a bank account?

Yes - in the Bowery National Bank -  
What have your balances been in bank of late - say within the past three weeks?

Not large - just enough to meet our immediate wants - we had been buying chiefly for food - all parties would not take our checks, those who did not know us -

Philip Caplan

Subscribed and sworn to,  
before me, this nineteenth  
(19<sup>th</sup>) day of February 1889

Justus Mitchell  
Tri-Minister

Philip Caplan



0260

Fire Department of the City of New York.  
BUREAU OF FIRE MARSHAL.

(Form No. 3.)

(157 & 159 EAST 67th STREET.)

State of New York,  
City and County of New York, } ss.

of No. \_\_\_\_\_

being duly sworn, deposes and says: \_\_\_\_\_

*Philip Caplan recalled on March 9<sup>th</sup>,  
examined by the Fire Marshal, testifies  
as follows:*

*You testified on Feb'y 19<sup>th</sup> that you contributed  
about \$800.<sup>00</sup> worth of goods and you paid  
about \$900.<sup>00</sup> worth of goods to the general  
stock of the partnership?*

*Yes*

*How did you know that you had that amount  
of goods?*

*From a personal examination of the goods...*

*Did you take any inventory or account of the  
goods, specifying articles, quantities,  
prices &c*

*No Sir, we did not*

*Then your only valuation of the same was from a  
personal examination & verbal state-  
ments as to quantities & values?*

*Yes -*

*Where have your purchases for your present stock  
been delivered?*

*Generally at the store*

*Were any goods delivered elsewhere?*

*Not that I know of - except in one case  
when Chaplin & Co delivered a piece of  
muslin to a customer to whom we  
had sold it.*

Subscribed and sworn to, this \_\_\_\_\_ day of \_\_\_\_\_ 188 \_\_\_\_\_, before me.

0261

Had you any notes unpaid at the time of the fire?

Yes one note, which has not yet been paid -

It was endorsed - I did not consider this as a debt, when I told you that we owed about \$300 -

For what, was that note?

I don't recollect; it was for \$300<sup>00</sup> or \$400<sup>00</sup>.

To whom was <sup>that</sup> note given?

To Rubenstein & Samuels -

When does it fall due?

I don't remember -

Is your statement, made on the 19<sup>th</sup> of February, as to your other indebtedness, not that contracted on behalf of the co-partnership, full and correct as far as you know?

It is - The partnership assumed them -

How much was due to you by customers and how much to Mr. Soudovitch for ~~for~~ sales made prior to the partnership?

I can not say positively, but the aggregate amount due to both of us was not less than \$3000<sup>00</sup>.

This amount of \$3000<sup>00</sup> was in addition to the goods and cash already mentioned, as contributed to the general stock of the partnership?

Yes -

Can you tell me what your sales have been, in the aggregate, since the formation of the partnership?

I can not state the amount exactly, but I think, taking the sales to the private customers and those made at the store, that they amounted to about \$150<sup>00</sup> per week.

Did you supply your private customers from the stock in the store?

Generally we did - Occasionally we bought or

0262

Philip Kaplan  
recalled

Fire Department of the City of New York.

BUREAU OF FIRE MARSHAL.

(Form No. 3.)

(157 & 159 EAST 67th STREET.)

State of New York,  
City and County of New York, } ss.

of No.

being duly sworn, deposes and says:

Had the goods delivered to the customers at  
the store where purchased; or we took  
them <sup>(the goods)</sup> ourselves and delivered them  
without taking them to our store.

Where do you chiefly do business?

In the lower part of this city, and in Jersey  
City and Brooklyn.

Philip Kaplan

Subscribed and sworn to, this

11<sup>th</sup> day of

March, 1889, before me.

James M. Mitchell  
Fire Marshal

0263

Sandwich & Caplan  
2908 Third Avenue

List of witnesses of

Owner of Building

Elizabeth T. Simmons  
2910 Third St.

Occupants of

2908 Third St.

{ Jacob H. Kern & fam.  
Frank Baarnagle & fam.  
John Eckert & fam.

Witnesses

Officer Geo. W. Murray {

" Jas. C. Clark {

33rd Precinct -

As to giving alarm, extent of  
fire and duration of same

Capt Hugh Kittson {

501 N. Third St. {

Engine #1

As to existence of 2 fires far  
removed from one another -  
Extent of fire - Ease and ra-  
pidity with which it was  
extinguished - Red hot stove  
Front shelves were in position -  
Conditions not favorable to  
rapid combustion - Duration  
of fire -

Mathias Ranniger {

Peter Sloane {

Truck No. 17

143rd St. Mac 3rd St.



0264

as to taking down shelving in  
rear part of store and front top  
shelf in store shelving had  
been turned through and no  
goods on shelves were totally  
destroyed. as to taking  
goods off shelves before taking  
down the latter

James Ray Patrol No. 4

as to evidence of kerosene  
on some of goods; as to fact  
that shelves were not turned  
through, and as to conversation  
between adj. ins. Landraff  
and one of the proprietors, in  
which the former made a protest  
against such a claim for  
loss as the firm were endeavor-  
ing to establish, pointing out  
to him the danger of their  
doing so

Jacob H. Kern }  
Mrs Albina Kern } 2908 Third av.  
Owen Fitzsimmons }

as to time at which the  
occupants of the Dry Goods  
store were last seen at their  
place of business on the night

0265

of the fire; as to custom in regard to pulling down the blinds on window and down when store was closed at night; as to smell of kerosene noticed before the fire was discovered; as to no gas being left lit in store, contrary to custom and as to the non-appearance of parties at their store on Sunday, the day after the fire - By Mrs Kern, as to peculiar movements of one of the parties on that evening -

Henry St. Landgraff } 178 Broadway  
or assistant } 3

As to list of articles claimed to have been destroyed - how made out? As to subsequent protest made by him, Landgraff, against such a preposterous demand, pointing out the danger of such a course, and as to the gradual abatement of the claim, presumably because of a fear induced by the Fire Marshal's investigation of the case, to about 1/4 of the original amount.

0266

James Mitchell, Fire Marshal  
Jacob Frank, Asst. Fire Marshal  
<sup>Charles Lewis</sup>  
Lawrence W. McGloth, Asst. to Fire Marshal

As to Testimony taken; as to  
examination of premises on  
Monday; as to there being  
two distinct fires; as to the  
fact that there was little if  
any total destruction of goods  
and as to the presence of the  
odor of kerosene

List of

Witnesses

made

Sandwich & Coplan

0267

In Re Sandowitch & Caplan  
2908 Third Avenue  
Dry Goods Store

A fire occurred in the above premises  
at 11:45 P.M. on February 16<sup>th</sup> last.

There are many circumstances which  
lead to the conclusion that the parties set fire  
to their premises, their motive being to obtain  
insurance money in excess of the value  
of their property.

The facts, briefly stated, are as  
follows:

The parties claim to have closed their  
store at between 9 and 10 o'clock on the  
evening in question, taking the keys with  
them, and to have gone directly to their  
homes. Two witnesses swear to having seen  
them at the store at or about 11 o'clock.  
The alarm was received at the Engine  
House at 11:37.

There were two fires started in this  
store, one in the shelves near to and behind  
the stove, the other in the rear part of the  
store. No connection between the two could  
be traced. In the rear part of the store there  
was no stove or light burning. In the front  
part there was a small stove which  
was red hot when the firemen reached



0268

the scene - about 12 an hour after the closing up.

The occupants say that they had a kerosene in the store, not having any use for it - One witness swears that she perceived the smell of kerosene shortly before the alarm of fire was given, and the presence of kerosene was detected on some of the goods after the fire was extinguished -

The blinds, which were usually kept partially up, so that any one passing in the street could see into the store, were on this particular night pulled down to the full extent, cutting off all view of the interior - Contrary to custom also, there was no gas left burning in the store when it was closed -

The parties, Soudowitch & Kaplan, claim to have had a stock of goods worth \$3000.00 at the time of the fire, upon which they had an insurance of \$2500.00

The goods found in the store, after the fire, as appraised by the parties themselves, did not exceed in value the sum of \$750.00, while the amount of goods totally destroyed, if any were so, of which there is much doubt, was very small, the fire being of short duration and burning very slowly owing to the absence of ventilation.

After the fire, the said Sandowitch and Caplan made out through their adjuster and submitted to the representatives of the insurance companies, a list of articles claimed to have been totally destroyed, amounting in value to about \$30,846 (including some 7000 yards, more or less, of rolled stuffs, and innumerable other articles) of which no trace or debris could be found.

Since, being advised by their adjuster of the danger they were incurring, and, presumably, because of a fear produced in their minds by the Fire Marshal's investigation, they have gradually abated their claim until the amount which they are <sup>as I am informed</sup> willing to accept, in settlement for all losses is about one-fourth of the original claim, or in other words about equal to the value of the goods found in the store (all of which are more or less damaged by fire, smoke or water) with a liberal allowance added for such as may have been totally destroyed.

The parties owed at the time of the fire, as nearly as could be ascertained, about \$1600<sup>00</sup>, including their individual indebtedness assumed by the partnership, and had a bank account with a balance of

0270

less than \$300.00. No idea could be obtained from them of the amount of money due them by their customers, for sales made since the partnership was formed.

They kept no regular books, and the only memorandum book which carried that anything in relation to their business was, they say, lost in the fire. It is to be remarked in this connection that the fire did not reach that part of the store where their desk was situated, and where said book was probably kept.

It is claimed by Sandowitch & Kaplan that they contributed to the general stock of the partnership some \$1,700.00 worth of goods, which, as peddlers, they say <sup>they had</sup> stored at their homes. No inventory or list of said goods was made at the time, and we have, therefore, only their statements as to the fact. Claiming to have done very little business within the time between the opening of the store and the fire, and agreeing as they do to accept about \$750.00 in settlement of all losses, we may safely assume that no such contribution of goods was made.

One of the partners says that there was one item individually, at the time the partnership

0271

was formed, about \$3,000.00. This statement it has not been possible to verify.

In conclusion, it may be safely assumed that, had the fire made a clean sweep of the contents of the store, Sandwitch & Coplan would have sworn to and urged their claim to the full amount of the first inventory, made out & submitted through their adjuster, namely \$3,765.98. Failing in securing the anticipated result, and alarmed by the investigation that was instituted, they are endeavoring to escape by reducing their claim to what may appear a reasonable amount.



0272

No 1

Assuming Say's statement regarding their condition to be correct throughout, the following result would appear:

|  |           |
|--|-----------|
| Goods contributed to general stock<br>as claimed -     | \$ 1.700. |
| Bot. since the formation of the<br>partnerships, about | \$ 2.000. |
| Total value of goods                                   | \$ 3.700. |
| Sold during partnerships,<br>8 weeks @ \$150. per week | \$ 1.200. |
| Amount to be accounted for                             | \$ 2.500. |

|                           |            |           |
|---------------------------|------------|-----------|
| Found in store after fire | \$ 747.52  |           |
| Unaccounted for           | \$ 1752.48 | \$ 2.500. |

No 2

Assuming that the \$1.700. worth of goods  
was not contributed, the result would be:

|                                   |           |
|-----------------------------------|-----------|
| Bot. since partnerships, about    | \$ 2.000. |
| Sold in 8 weeks @ \$150. per week | \$ 1.200. |
| Am't to be accounted for          | \$ .800.  |

|                           |           |          |
|---------------------------|-----------|----------|
| Found in store after fire | \$ 747.52 |          |
| Say totally destroyed     | 57.48     | \$ .800. |

No 3

Their original claim was:

|                   |             |
|-------------------|-------------|
| Totally destroyed | \$ 3.018.46 |
| Partially damaged | 747.52      |
|                   | \$ 3.765.98 |

They will accept in settlement \$700.

0273

Statement

Dr. Re.

Sordowitch & Caplan

0274

## Fire Department of the City of New York.

## BUREAU OF FIRE MARSHAL.

157 & 159 East 67th St.  
(157 & 159 MERGER STREET.)State of New York,  
City and County of New York, } ss.

Jacob W. Kern

of No. 2908 Third Avenue

being duly sworn, deposes and says: That he does business

as a liquor dealer at 2910 Third av.; that at about ten minutes after eleven o'clock on the night of February 16th he left his store for the purpose of getting some fresh air; that passing the dry-goods store in No 2908 Third av. he saw that the store was still open and the fire burning, one of the occupants being visible at that time; that he returned to his store in a few minutes, and remained there about 20 minutes, when a boy opened the door and called out that there was a fire in No 2908 -; that he immediately ran out and saw through the glass over the door of said store the glare of fire on the ceiling; that he ran back to the store, his own, and told the persons there to send out an alarm; that he then ran to No 2908 to give warning to the tenant, his wife and children being of the number; that when passing the dry-goods store this last time, the flames had apparently died out to some extent - as the reflection on the ceiling was less brilliant; that, when he came back again, after alarming the tenant, he found an officer at the door of the dry-goods store, which

Subscribed and sworn to, this

188, before me,

day of

0275

was then full of dense smoke; but the fire  
engines soon thereafter arrived and extinguished  
the fire.

He further says that when he first saw  
the stove, after the first alarm had been  
given by the boy, as aforesaid, he noticed  
that the blinds on the front door and the  
small windows were fully pulled down, which  
was an unusual thing, and struck him  
as such at the time.

Jacob H. Kern

Subscribed and sworn to }  
before me, this twentieth }  
day of February 1889 }

J. A. Mitchell  
Friedland

J. H. Kern



0276

Fire Department of the City of New York.  
BUREAU OF FIRE MARSHAL.

157 & 159 <sup>Form No. 3.</sup> 226<sup>th</sup> St.  
(155 & 157 MERCER STREET.)

State of New York,  
City and County of New York, } ss.

*Owen Fitzgibbon*

of No. *2910 Third Avenue*

being duly sworn, deposes and says: *that he does business as*

*a grocer at No 2908 Third Avenue; that his wife Elizabeth Fitzgibbon is the owner of No 2908 Third av.; that as his wife's agent he rented the store floor of said building to Sandowitch & Caplan, to be used as a dry-goods store; that on the evening of Saturday, the 16<sup>th</sup> of February, he was in his own store, No 2908, which is on the other side of the hallway from the store occupied by Sandowitch & Caplan; that at ~~11:30~~ <sup>11:15</sup> o'clock, or thereabouts, that evening he ~~passed~~ passed from his store to No 2910, the house in which he resides, and in doing so his attention was attracted to the store occupied by Sandowitch & Caplan by the fact that the blinds on the window and door were drawn down to the full extent, cutting off all view of the inside of the store, and by the <sup>further</sup> fact that there appeared to be no light in the store, both of which <sup>circumstances</sup> facts were contrary to the usual practice of the occupants, who always kept the blinds partially drawn down or left a light burning during the night. Further that he has seen the store occupied by Sandowitch & Caplan almost every night since they have been in it, and that on*

Subscribed and sworn to, this

188, before me,

day of



0278

10<sup>30</sup> PM.

Fire Department of the City of New York.  
BUREAU OF FIRE MARSHAL.

(Form No. 3.)  
157<sup>th</sup> & 169<sup>th</sup> East 67<sup>th</sup> Street.)

State of New York,  
City and County of New York, } ss.

Mrs. Alberta Kern

of No. 2908 Third Avenue

being duly sworn, deposes and says: That on the evening of

Saturday, July 16<sup>th</sup>, she was standing at the front door of her residence, the hour being then about 20 minutes of eleven; <sup>she saw</sup> that while standing at the door, one of the occupants of the dry goods store, the door of the two, enter the hall-way from the rear room of the dry-goods store, come forward to the street and enter the front door of the store; that he did the same thing three different times while she was standing there; that she went up stairs to her room at 5 miles to eleven o'clock, at which time the men were still in the dry goods store; that she can not be mistaken in this, as she has frequently seen the men and is familiar with their appearance; that, on the way up stairs, she perceived the smell of smoke and kerosene, but took no particular note of the matter, as she had no suspicion of any fire in the building; that within 30 minutes, or thereabouts, after returning to her room, she was aroused by her husband who informed her of the fire in the dry goods store.

The further says that while the one occupant of the store was passing through the hall-way and store, as above described,

Subscribed and sworn to, this

188, before me,

day of

0279

the actor was standing at the front window  
looking up and down the street; and during  
that time the blinds on both the door and  
windows were up giving a full view of the  
interior of the stage, the far being like a

Mrs. Alvin Kern

Subscribed and sworn to,  
before me, this twentieth  
day of February 1889.

J. Mitchell  
Treasurer

Mrs. Alvin Kern



0280

Fire Department of the City of New York.  
BUREAU OF FIRE MARSHAL.

157 & 159 <sup>Form No. 617</sup> ~~each~~ <sup>City</sup> ~~155 & 157~~ MERCER STREET.)

State of New York,  
City and County of New York, } ss.

Phillip Caplan

of No. 47 Eldridge Street

being duly sworn, deposes and says: and examined by the  
Fire Marshal, testifies as follows:

What is your name?

Phillip Caplan

What is your age and where were you born?

I am twenty-nine years old and was born in  
Russian Poland.

How long have you known your present partner,  
J. Sandewitch?

Since he was a child - we went to school together.

How long have you been connected with him in  
business? How long before the present  
store was opened?

I have been in business with him <sup>about Election time</sup> since ~~January~~  
last - The present store was opened  
in the holidays, between Christmas and  
New Year's -

How much capital did you both contribute  
to the present business?

About \$500. Each in cash - I contributed about  
\$800. in goods - He contributed about \$900.  
in goods -

What was the amount of the stock in the store  
at the time of the fire?

About \$3000<sup>00</sup>

What insurance was on it?

Subscribed and sworn to, this

188, before me,

day of

Phillip Caplan  
2908  
J.M.W.

0281

Twenty-five hundred dollars.

What do you consider your loss from the fire?

I consider it a total loss.

What do you owe in account of the stock in the store?

About \$200<sup>00</sup> or \$300<sup>00</sup>.

Do you owe any other money?

I do owe other money.

How much, and to whom?

I can not say how much. I don't think it will amount to \$200<sup>00</sup>. I don't owe any borrowed money.

Did you close and lock the store on Saturday night last?

Yes, I did.

At what hour?

Between 9 and 10 o'clock.

Your partner was with you at the time?

He was.

Did you go downtown with him?

Yes I did.

Did you stop anywhere on your way home?

We did not.

Where did you part from your partner?

Some where near my house.

Did you part with the keys that night or until Monday morning?

I did not.

Has any one else keys to the store?

As far as I know, nobody else has keys.

Could any one get into the store without

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FIRE DEPARTMENT, CITY OF NEW YORK.  
BUREAU OF FIRE MARSHAL.

(Form No. 3.)

TESTIMONY

RELATIVE TO FIRE AT

No. 2908 Third Avenue

114<sup>th</sup> P.M.

February 16<sup>th</sup> 1889

Dated March 21<sup>st</sup> 1889

Jas Mitchell

Fire Marshal.

Witnesses:

B. Sandowitch  
T. Laffan  
O. Fitzgerald  
J. H. Kinn  
Wm. A. Harris  
Geo. H. Murray  
J. C. Clarke  
Hugh Ketterson  
Wm. Barringer  
Peter Sloan  
Jas. Ray  
L. Lenz  
H. A. Landgraf  
Jas Mitchell  
Jas. P. Smith  
L. H. McBrath

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*Court of General Session.*

THE PEOPLE OF THE STATE OF NEW  
YORK,

against,

SIMON SANDOWITCH and

PHILIP CAPLAN

CITY AND COUNTY OF NEW YORK. SS:-

JACOB MANHEIM being duly sworn deposes and says. I am an Attorney-at-Law, and have my office in Temple Court, Corner of Beekman and Nassau Streets, City. On or about the 19th day of March, 1880, the defendants SIMON SANDOWITCH and PHILIP CAPLAN retained me as their Attorney for the purpose of taking proceedings for the recovery from the Phenix Fire Insurance Company, and the Liverpool, London and Globe Insurance Company, of claims to the amount of \$2,500, in which aggregate amount they held policies of insurance of said Companies; Their said claims against said Insurance Companies having arisen out of loss and damage by fire at their store and place of business at No. 2908 Third Avenue, City.

They stated to me that at the time of the fire to the best of their knowledge and belief there were about \$3,000, worth of goods in said store, said goods consisting of dress and dry goods, ladies and gents furnishing goods



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&c., &c. After I had been retained by said defendants, and before any proceedings had been taken by me, said defendants asked me how long they would have to wait before the trial of their actions against said Insurance Companies, in case it should be necessary to institute such actions. I answered that I intended bringing such actions in the Supreme Court, and that it would be over a year before said actions could be reached for trial. I also answered that if the Insurance Companies desired to delay they could appeal at least twice, and that it might be three years or more before we got our money. Said defendants answered that almost all their means had been in their said store and that they didn't think it was in their power to carry on so protracted a litigation with said Insurance Companies.

The said Insurance Companies had made an offer of compromise of \$750, within a few days after the fire, at said store, which fire took place on February 16th, 1889. The defendants had refused said offer of compromise and had continued to refuse the same. Said Insurance Companies were always ready and willing to pay said sum as a compromise, but had refused to pay any more.

I therefore advised said defendants that if they couldn't wait till the final disposal of any actions that might be brought for the recovery of their said claims against said Insurance Companies, they would have to take what said Insurance Companies had offered to give them; and on my advice they finally consented to take said sum of

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\$750, as a compromise. The papers in the usual printed forms were made out, which I had defendants sign, and on presentation of the same to the adjustors of the Insurance Companies the claims were settled. A check for \$450 was received from the Liverpool and London and Globe Insurance Company and the adjustor for the Phenix Fire Insurance Company also said that he would have a check ready for \$300, and said Phenix Fire Insurance Company, as I am informed, was ready to pay said sum, but for the arrest of said defendants.

After I had informed said defendants that their claims were settled, I told them that they could remove and dispose of such of the burned goods as might have any value, and so avoid the payment of any more rent. As soon as said defendants removed and disposed of such damaged goods they were arrested.

I have carefully examined into the circumstances of the case against said defendants and I am of the opinion and verily believe that they are innocent of the crime charged against them.

Sworn to before me this ; *Jacob Manheim*  
1st day of April, 1839. ;

*John T. Lambias*  
*Notary Public.*  
*King County*  
*Certificate filed in N.Y. Co.*

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To

John R. Fellows Esq.,

District Attorney,

Sir:-

PLEASE TAKE NOTICE that on the within affidavit and on all the proceedings herein I will move on the 2nd day of April, 1889, at eleven o'clock in the forenoon before the Court of General Sessions in and for the City and County of New York in Part 1 of said Court, that the defendants be admitted to bail in sums fixed by the Court, and for such other relief as may be just.

Yours &c.,

Ambrose H. Purdy,  
Counsel for defendants,  
280 Broadway,  
N. Y. City.

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To

John R. Fellows Esq.,

District Attorney,

Sir:-

PLEASE TAKE NOTICE that on the within affidavit and on all the proceedings herein I will move on the 2nd day of April, 1889, at eleven o'clock in the forenoon before the Court of General Sessions in and for the City and County of New York in Part 1 of said Court, that the defendants be admitted to bail in sums fixed by the Court, and for such other relief as may be just.

Yours &c.,

Ambrose H. Purdy,  
Counsel for defendants,  
230 Broadway,  
N. Y. City.





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N. Y. COURT OF GENERAL SESSIONS.

x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x

T h e P e o p l e

--against--

Sandowitch & Caplan.

x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x

CITY AND COUNTY OF NEW YORK, SS:

A m b r o s e H. P u r d y, being duly sworn, says that he is the attorney for the above named defendants; the defendants are charged in the indictment with arson in the first degree; the case was brought to trial for the first time before Justice Gildersleeve on the 26th of May 1889, but the trial lasted the whole of the 26th, 27th and the 28th; the defendant put in no testimony, but went to the jury on the people's case alone; the jury disagreed, standing nine for conviction and three for acquittal; the defendant was again brought to trial before Justice Cowing on the 5th day of June; the trial began June 5th and occupied all of the 5th, 6th, 7th, 10th, 11th, 12th, 13th and the 17th. Thus the trial occupied eight actual days, and in time, including the recess, two weeks, and the jury again disagreed, standing seven for acquittal to five for conviction.

Deponent is very familiar with this case, having tried it twice, and is positive that the third trial will occupy more time than the second trial by reason of the cross-examination of witnesses as to what they testified to on former trials and also by reason of the introduction

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of evidence which was not thought to be necessary on the other trials, but which will be necessary upon this trial.

Deponent further says that in his charge to the jury Justice Cowing urged the jury by all means in his power to agree; he stated to them that the time of the county ought not to be occupied in repeated trials of the same defendants.

Deponent further says that after the second trial the prisoners were discharged on motion by Judge Cowing on bail in the sum of \$1000 each.

Deponent further says that the fire took place on the 16<sup>th</sup> day of Feb 1889 and the defendants were arrested on the 30<sup>th</sup> day of Mch 1889, a period of nearly six weeks after the fire, and that although the defendants were here in the city being examined by the fire marshall, and bringing suits against the insurance companies for the insurance upon their property, that no preliminary examination was had before a magistrate, but an indictment was sprung without warning upon them and deponent calls the attention of the Court to the fact that no indictment was found, or no steps taken towards the prosecution till after the defendants had made their claims and brought suits against the insurance company.

Deponent further says that the defendant, Caplan, is a poor man and deponent believes that he is now entirely without means; he was kept for a long time in prison, and the money with which he paid deponent for defending him on the other two trials, was subscribed by friends;

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that if he is put to a third trial it will be a very great hardship, as deponent will have to defend him without pay, and the necessary incidental expenses of the trial will be a great burden upon him.

W H E R E F O R E, by reason of the premises deponent urges that the case be struck from the calendar, and that the defendants be discharged on their own recognizance, *or that the indictment be dismissed, and for other relief as may be just.*

Sworn to before me, this *4th* :  
day of *Dec.* 1889. :

*A. H. Purdy*

*Jacob M. Mankin;*  
*Com. of Deeds,*  
*City & Co. of N.Y.*





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four days, before His Honor, Judge Gildersleeve disagreed, standing only three for acquittal.

There were no proceedings whatsoever before any police magistrate, and the first notice we had of any criminal charge against us was on the finding of said indictment and our arrest thereunder on said 30th day of March, 1889.

From the time of said fire until the finding of said indictment we were continually in the city and attending to our ordinary avocation. We had compromised our loss with the insurance companies, one of said companies having paid its share of the amount agreed upon as a compromise, and the other of said companies delaying the payment of the sum agreed upon, until on our arrest they refused to pay for that reason.

All the property of which we were possessed was in said store at the time of the fire, and we agreed upon a compromise simply because we had not the means to carry on a long litigation against said companies.

I and my co-defendant are both married men. I have a wife and four children. I am now and have been engaged for a long time past, in business as a dealer in general merchandise on the installment plan, as also my co-defendant. Owing to our long imprisonment our business fell off, and became almost ruined. Our customers owing us money, moved their places of residence and we were unable in a great many cases to discover their new addresses, and we have become greatly impoverished.

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All the means at our disposal have been spent for counsel in defending us at the two prior trials; and we have also exhausted the money furnished us by our friends, to aid in our defence.

I am now almost without means, and am not able to earn more than sufficient to provide for my wife and family. Since my release from the Tombs on bail, as aforesaid, I have been attempting to again put my business in such condition as to afford me and my family a livelihood, and have met with partial success.

I am therefore unable to stand the expense of another trial, and the same will also undo the little I have been able to accomplish since my release from imprisonment; and a further trial will inflict upon me a very great hardship.

I reside at No. 47 Eldridge Street, City, where I have been residing with my family for the past three or four years.

Sworn to before me this 4th:  
day of December, 1889.

Philip Caplan

Abraham D. Leoy  
Commuter of Deeds  
N.Y. Co.







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The People  
vs.  
Phillip Caplan.

Monday June 17, 1889.

JUDGE COWING'S CHARGE.

Judge Cowing charged the Jury as follows:

Gentlemen of the Jury:

Last Thursday we finished trying the case of the People against Phillip Caplan, the prisoner at the bar up to the point when you were to receive the Judge's charge upon the law and then determine the issues. I presume you have remembered the testimony in the case; there is not a great deal of conflict in it so that it will be only necessary for me to-day to succinctly and carefully draw your attention to the law applicable to the evidence in the case and then you will be able to decide it without any question as to whether or not there will be any injustice done. Now Phillip Caplan alone is on trial. Simon Sandowitch, who was jointly indicted with him I presume but I do not know, has elected to have a separate trial as it was his right to do. He is not therefore in this case on trial before you. The crime charged in the indictment is that of arson in the first degree, and that is made up of certain facts as well as law. There are certain elements which go to make up that crime which are essential should be established beyond all reasonable doubt upon the evidence to justify a conviction. For certain reasons which I will explain to you, I have concluded to submit the case to you upon an attempt to commit the crime. It was for

this reason, that before there can be any conviction of the crime of arson there must be some portion of the realty, the building itself burned. It need not be any considerable portion, if the fibres of the wood are burned, that is charred, that would be sufficient in and of itself, but you will remember the evidence, that it appears there were two places which were on fire when the fire-men arrived there. It appears in the testimony that the shelving was either put there by these Defendants or was purchased by them, so that the owner stated that it belonged to them, and they had a perfect right to remove them --- therefore I as matter of law determined that if they were fixtures and not a part of the realty, if it only burned the shelving and did not burn any portion of the building, I came to the conclusion that there was not sufficient evidence to justify the finding of that fact, to wit, the burning of some portion of the building.

But there is evidence if it is reliable and sufficient to satisfy you after you consider it, whether or not they did not attempt to burn this building. Now human law does not undertake to punish men's evil thoughts. As long as men think evil thoughts and do not undertake to give expression to them in acts, human laws do not punish them. A man may be as bad in his mind and thoughts as he chooses and it does not become a crime and no punishment follows, but the minutes he undertakes to express those thoughts in acts, then he becomes amenable to the criminal law, provided those acts constitute a crime. There is what is known in law as an attempt to commit a crime, and the section of the Code is in these words:

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"An act done with an intent to commit a crime but failing to effect its commission, is an attempt to commit that crime" and is punishable. Therefore in this case you are to determine whether he is guilty of an attempt to commit the crime of arson in the first degree, and your verdict shall not under any circumstances be for a higher offence than that. If you should come to the conclusion upon all the evidence in the case that these Defendants attempted to destroy this building under such circumstances if they had succeeded would be arson in the first degree, then your verdict would be an attempt to commit arson in the first degree. Now arson in the first degree is defined as follows: a person who wilfully burns or sets on fire in the night time in which there is a human being is guilty of arson in the first degree. To constitute that offence it is essential that the People should prove the following facts: First, that he did set this building on fire; second, that it was a dwelling house; third, that it was in the night time; and fourth, that at the time he set the fire there was some human being in the dwelling house. Now, there are some of these facts which are established by the plain, uncontradicted and unimpeached evidence. There has been no disposition on the part of the Defendants to gainsay the fact that there was a fire in these premises, and that seems to be established beyond all doubt. It is conceded by the undisputed evidence that it was an inhabited dwelling house. Alvina Kern, who was a witness here, states that at the time she did live within the four walls

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and under the roof of that house. For the purpose therefore of arson, that was her dwelling house. She swears that she was in the dwelling house at the time of the fire. So you see, that is conceded. Then the question as to the time when it took place, it took place after eleven o'clock at night; so the fact that it took place in the night time is conceded. It leaves therefore, really one serious question for you to determine, or two questions, was this an incendiary fire or was it an accidental fire. That is the serious question in this case but you would have to go further. If it was an incendiary fire, are the Defendants the persons who caused it? Now, the theory on which this case has been litigated on the part of the People is, that it was not an accidental fire but it was an incendiary fire and that the Defendants caused it -- and the Defendants' theory was that it was an accidental fire. So you see that it will be necessary for you to examine the evidence with a great deal of care to determine which theory, the People's or the Defendant's is the probable one. Which theory is the one which you are going to adopt and come to the conclusion is the correct one from the evidence. So far as these main points are concerned you will remember that they are based almost altogether upon circumstantial evidence. For instance, there is no eye witness testified to havin seen anybody set this fire, but the People claim that the circumstances are such that you, as twelve sensible and reasonable men, can come to but one conclusion, to wit, that of guilt. The Defendant claims that the



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circumstances do not necessarily point to such a conclusion. The Defendant claims that taking all the circumstances and taking them as true, that they can be so construed as that the Defendant may be innocent. Now what is circumstantial evidence? Tersely defined it is a process of reasoning by which from known facts we ascertain the unknown facts. Now in that case you see at once it is just as essential that the known facts should be established to your satisfaction as the unknown facts. You cannot reason correctly unless the circumstances are established by testimony which satisfies you that they are reliable. Now the circumstances in this case which are inculpatory the People claim are as follows: they claim in the first place, that these Defendants had a motive to set this place on fire; they claim that the evidence shows that they were insured to such an extent that they had a motive to cause the fire for the purpose of defrauding the insurance companies and getting the amount of the insurance which was more than their due under any circumstances. The second circumstance they claim is, that the Defendants had the opportunity to cause the fire. Well, they did have the opportunity. Then they claim that on this night in question there was the suspicious circumstance that the shades in front of the house, on the door and the window I think, at least the shades on the window, were pulled down, and they claim that never except on this one occasion were they pulled down before. That will be for you to determine because upon that there is a conflict of evidence. Then the next suspicious circumstance they claim is, that the fire

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in this building occurred in two different parts of the room, and from that evidence alone they say that that would be a coincidence in the ordinary course of events which would not have happened. They claim there was two fires. I think they were four or five feet or perhaps more removed from each other, one in the rear and the other in the front. Then the next suspicious circumstance they point to is the fact which they claim to be established, that there was kerosene oil found and the odor was prevalent in the room and that there was some shirts discovered on which there was found kerosene.

They claim that that is out of the ordinary course of events and it could only have happened by a person who desired to cause the burning. Now these in themain are the suspicious circumstances which the People rely upon to lead you up to the conclusion that these Defendants committed this act of burning. It will be for you to determine whether they are consistent with their innocence; it will be for you to determine whether, taking in view these circumstances, you can find a theory by which they may all be true and these parties still be innocent. Because it has been laid down by our highest Court that where a case depends upon circumstances, the circumstances must not only be consistent with guilt but they must be inconsistent with innocence --- in other words, they must form a chain, link by link, so that naturally and satisfactorily they lead your minds up to the conclusion of guilt. Taking these various circumstances and forming them into a chain and your minds are

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readily led to the conclusion that they may all be true and that these Defendants may be innocent, they are entitled to have that construction put upon the evidence.

Now, there are some circumstances which are not contradicted. The circumstance, for instance, that this fire occurred in two places in this store. That is not contradicted; it has been sworn to by several witnesses and the Defendant has not undertaken to gainsay it. The circumstances which the People claim to be the suspicious circumstances are, the kerosene, the shades and the insurance. Now as to those circumstances, there is evidence both ways, so that in the first place you must ascertain what the facts are. Was there kerosene in that store and kerosene on the shirts and was there kerosene on the goods? Now that fact the People claim is established by affirmative evidence, that is, that parties swore positively to have smelled it. There are several witnesses who testified for the Defendant which testimony the District Attorney claims is of a negative character and he claims should not have so much weight with you as the positive testimony. The several witnesses for the Defendant swear that they went into these premises at about the time of the fire and they were not able to smell any kerosene at all. So that it is a question of credibility of witnesses; it is for you to determine, taking the evidence pro and con, the evidence for the People that there was kerosene and the evidence for the Defendant that they smelled no kerosene there in the premises. It is a question of fact and not a question of law and it is for you to determine whether there was

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kerosene there or not. If you come to the conclusion there was no kerosene there and that the witnesses for the People are mistaken, then what the people claim to be a suspicious element is eliminated from the case; if you come to the conclusion from all the evidence that there was kerosene there, then it is for you to treat that as a circumstance which the People claim to be an inculpatory circumstance. What was the fact, who put it there, who had a motive to put it there? With reference to the shade, there is a conflict of evidence on that. The People claim that they have proved by McGrath, who I think is the owner, and by Fitzsimmons, the old gentleman, that on this particular night he noticed the shades were pulled as I understand, clear down and that for weeks or months or for a long time, I would not undertake to specify the length of time, he never had seen them down before; whereas the Defendants claim that on this night in question, as far as they are concerned, they are not aware it was down any more than it was on other occasions. When they slept in the store, as I understand it, they always pulled them down and when they were out of the store they left them up so that people could see in and see if there was any burglary or other offence being committed. Now what the truth is as to this shade, it is for you to determine upon the evidence. If you come to the conclusion that this shade was in the position in which it ordinarily was, then the People claim that there was nothing suspicious about that circumstance; there is nothing which will form a link which could be forged into



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a chain to predicate any conclusion of guilt upon. The People claim that if you come to the conclusion that this shade was down on that night especially when ordinarily it was up, it is for you to determine whether it was down for a purpose. It is for you to determine what the fact is from the evidence. Was that shade down in the ordinary course of events or was it up or what was its condition? That you must determine upon the evidence. Now you see the facts which are essential for you to find.

You must find in the first place that there was a fire there. You won't have any difficulty to establish, everybody concedes that. You must find that it took place in the night time; that is conceded, there is no dispute about that. You must find that it was the dwelling house of Alvina Kern. I charge you as matter of law, that if she slept in that house and usually slept there, it was her dwelling house for the purposes of this case, and the evidence is undisputed that she was in this dwelling house at the time of the fire. You see that these facts are established for you by the undisputed, uncontradicted and unimpeached evidence. The fact now remains for you to determine from circumstantial evidence largely as to whether it was of incendiary origin or accidental; and if you come to the conclusion it was of incendiary origin whether these Defendants are the persons who caused it.

Now on this latter point and on all the facts you must be satisfied beyond a reasonable doubt or you would not be justified in convicting the Defendant. On the first facts so far as the dwelling house, the night time and the fire is concerned, there is no conflict. You will

not find any difficulty in settling them as to their being fully established. Now as to whether or no this was an accidental fire, as I have said before, is the serious question in the case. I apprehend when you retire to your room that you will bring all your intellects, all your persuasive and reasoning faculties into play to see if you can ascertain the truth as to that fact.

During the progress of the trial and in the summing up a great deal was said to you about the Defendants being Hebrews. Well, of course, gentlemen, I should be very sorry in this court to see any man punished on account of his nationality, his creed or his color. There is not any difference so far as the law is concerned. Every person in the land must obey the law whether he be Hebrew or Gentile, he must obey and respect the law. There should not be any prejudice against him on account of his creed or his nationality; he must be treated fairly. I think every one of you gentlemen in that box when you were examined preliminarily said you were Gentiles, that is, you were not Hebrews and on that account you should treat him fairly. Because <sup>of these</sup> some people have sometimes been incendiaries and done wrong, do not condemn the whole race, do not convict this Defendant on that account. It would not be fair and just for if you did you would be committing a worse crime than he has committed --- you would be deliberately committing perjury. Now you must not do that.

Counsel: A worse crime than that with which he is charged.

The Judge (continuing): Exactly, with which he is charged; they understand what I mean. If he is guilty he ought to be

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District Attorney's Office.

PEOPLE

vs. *Armen*.

*Sandwich & Kaplan*

There have been two trials of this indictment resulting in a disagreement in each instance.

I recommend that in view of above facts Defendants should be discharged on their own recognizance. The People cannot go to trial at present even should another trial be thought proper. I have not as yet been able to give this case an examination full enough to enable me to decide as to whether I should not ask a dismissal of this indictment. I will do so within a few days.

*J.R. Williams*  
Dist. Atty.



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**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Simon Sandaichin*  
*and Philip Rarden*

The Grand Jury of the City and County of New York, by this indictment, accuse  
*Simon Sandaichin and Philip Rarden*  
of the CRIME OF ARSON IN THE *first* DEGREE, committed as follows:

The said *Simon Sandaichin and Philip Rarden*, both  
late of the *Twenty Third* Ward of the City of New York, in the County  
of New York aforesaid; on the *sixteenth* day of *February*,  
in the year of our Lord one thousand eight hundred and eighty-*nine* at the  
Ward, City and County aforesaid, with force and arms, in the *midnight* time of the said  
day, a certain *dwelling house* of one *Jacob H. Kern*,  
there situate, there being then and there within the said *dwelling*  
*house* some human being, to wit: *one Alvin Kern*,

feloniously, wilfully and maliciously did set on fire and burn, against the form of the  
Statute in such case made and provided, and against the peace of the People of the State  
of New York and their dignity.

SECOND COUNT—

And the Grand Jury aforesaid, by this indictment, further accuse the said  
*Simon Sandaichin and Philip Rarden*  
of the CRIME OF ARSON IN THE *first* DEGREE, committed as follows:

The said *Simon Sandaichin and Philip Rarden*, both  
late of the Ward, City and County aforesaid, afterwards, to wit: on the day and in the  
year aforesaid, at the Ward, City and County aforesaid, with force and arms, in the *midnight*  
time of the said day, a certain *dwelling house* of one  
*John Robert*, — there situate, there being then and there  
within the said *dwelling house*, some human being, to wit:  
*the said John Robert*,

feloniously, wilfully and maliciously did set on fire and burn, against the form of the  
Statute in such case made and provided, and against the peace of the People of the State  
of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.



POOR QUALITY  
ORIGINAL

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Counsel,

Filed 29<sup>th</sup> day of March 1889

Pleas,

for THE PEOPLE

*B*

vs.

*Simpson Sandmontell*

*Philip Caplan*

JOHN R. FELLOWS,

District Attorney

*Part II, December 6/89*  
**A TRUE BILL**

*Mr. J. C. McCon. 100 West 10th*

*Mr. J. C. McCon. 100 West 10th*

*Mr. J. C. McCon. 100 West 10th*

*Mr. J. C. McCon. 100 West 10th*

*Mr. J. C. McCon. 100 West 10th*

*Mr. J. C. McCon. 100 West 10th*

*Mr. 1. Bailed by*

*Mrs. Goldberg - 201 Henry*

*Mr. 2. Bailed by*

*Mrs. Goldstein - 201 E. 6th*

*Mr. 3. Bailed by*

*Mrs. Goldstein - 17 Catharine*

*Mr. 4. Bailed by*

*Mrs. Goldstein - 17 Catharine*

*Mr. 5. Bailed by*

*Mrs. Goldstein - 17 Catharine*

*Mr. 6. Bailed by*

*Mrs. Goldstein - 17 Catharine*

*Mr. 7. Bailed by*

*Mrs. Goldstein - 17 Catharine*

*Mr. 8. Bailed by*

*Mrs. Goldstein - 17 Catharine*