

certain admissions and in denying his timely motion for mistrial when the prosecutor called to the attention of the jury that the defendant had failed to take the stand.¹

About 1 P.M. on September 1, 1961, a stock clerk named Simmons was in the stockroom of Sears Roebuck & Company at 4500 Wisconsin Avenue when the appellant entered. Outside the two main doors to the stockroom were signs reading "For Employees Only." Appellant was wearing a uniform of a type customarily worn by Sears' employees. He extended a greeting to Simmons who observed that the shirt worn by the appellant bore a blue Sears emblem. Simmons thought appellant was a new porter as the latter walked to the area where the television sets were stored. Appellant picked up a "TV" set in a sealed carton and went out through the store carrying the television set.

The following day appellant again entered the Sears store wearing a Sears shirt. Appellant was on the basement level heading back toward the stockroom when Simmons first saw him. Simmons and two other employees walked toward the appellant who then "started walking pretty fast up the steps," got on the escalator and went as far as the second floor where a store detective stopped him. After appellant told the detective he had found the shirt, appellant was asked to accompany the detective to the "security" room. Simmons was summoned and there identified appellant as the "man who had taken the TV set the day before." The store detective then notified Precinct No. 8 nearby, and two Metropolitan police officers came over, arriving about 12:45 P.M.

After ascertaining the foregoing and other facts, the Metropolitan police took the appellant back to the precinct.

¹ On brief, he also had argued that the court erred in admitting into evidence without proper identification a certain television set, the theft of which was charged in the second count. In view of our disposition of the case, we deem unnecessary any further reference to this particular point.