

DEFENDANT MCCARTHY: No, sir.

THE COURT: How did you take up with these Mexicans?

DEFENDANT MCCARTHY: I met them at San Bernardino, and they said they were coming to Salt Lake, and I said "I will go with you".

THE COURT: You rode in box cars from there?

DEFENDANT MCCARTHY: Yes, came in there one evening. I don't remember; anyway we broke into the store.

THE COURT: Who suggested breaking into the store?

DEFENDANT MCCARTHY: Sir?

THE COURT: Did you suggest it?

DEFENDANT MCCARTHY: We all needed clothes. I didn't suggest it first, no, sir.

THE COURT: But you--

DEFENDANT MCCARTHY: I helped as much as the rest of the boys, and I take as much blame as anybody else.

THE COURT: What time did you break in?

DEFENDANT MCCARTHY: About 4:30 in the morning.

THE COURT: You stole the clothes?

DEFENDANT MCCARTHY: Yes, sir.

THE COURT: Did you know that this was the law: "Every person who, in the night time, forcibly breaks and enters, or without force enters an open door, window, or other aperture of any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse, or other building, or any tent, fessel, water craft, or railroad car, with intent to commit larceny or any felony, is guilty of burglary in the second degree. Where, in a prosecution for burglary in the second degree, the question as to whether the crime has been committed in the night time or in the day time cannot be definitely arrived at by the jury, a verdict of guilty of burglary in the third degree, as defined in Sec. 8261, may be found; provided, the other elements of the crime of burglary in the third degree, as defined in Sec. 8261 have been proved"?

DEFENDANT MCCARTHY: No, sir, I didn't.

THE COURT: Do you know that if you ever had any ambition in