

# MALINSKI IS FREED IN MURDER TRIAL

## Brooklyn Man Wins 3-Year Legal Fight to Escape the Electric Chair

Morris Malinski, 30 years old, was acquitted early today in the Kings County Court of a first degree murder charge in the fatal shooting of a policeman in a payroll holdup near the Coney Island branch of the Brooklyn Trust Company on Feb. 15, 1941. The jury returned its verdict to Judge Louis Goldstein at 2:26 A. M. after three hours and forty-one minutes' deliberation.

During the thirteen-day trial an all-male jury heard the defense charge, through its principal witness, Nathan Spielfogel, a convict, that the defendant had been "framed" at his first trial and that he (Spielfogel) had conspired with the police and representatives of the District Attorney's office of Kings County to bring about the conviction.

Spielfogel was one of three convicts serving long terms in Sing Sing who had testified as State witnesses at Malinski's first trial. Spielfogel, however, recanted his previous testimony and took the stand for the defense.

In addition to the testimony of the investigating policemen, the prosecution introduced the alleged confession of Malinski taken four days after his arrest at the Bath Beach station house. On the stand Malinski charged that the statement was made by him because of "threats and beating" by the police.

Malinski's first conviction on June 24, 1943, for the murder of Patrolman Leon Fox on Feb. 15, 1941, while the policeman was escorting the manager of a Coney Island theatre to a bank, with the day's receipts, resulted in a reversal by the United States Supreme Court. Two others, who had been convicted with Malinski, were freed after higher court rulings.

David F. Price, who is serving with Joseph A. Solovei as defense counsel, summed up, contending that the prosecution had failed to establish Malinski's guilt beyond a reasonable doubt. William I. Siegel, Assistant District Attorney, asked for a verdict of guilty, either with or without a recommendation.

The court adjourned for dinner before the charge was given by Judge Goldstein.