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COURT OF GENERAL SESSIONS OF THE PEACE,  
CITY AND COUNTY OF NEW YORK. PART V.

-----X  
THE PEOPLE

VS

JACOB COHEN.  
-----X

Before:

HON. OTTO A. ROSALSKY, J.

and a Jury.

Tried, New York, March 13th, etc., 1912.

Indicted for Poisoning a horse (Section 190 Penal Law)

Indictment filed January 12th, 1912.

:- A P P E A R A N C E S :-

ASSISTANT DISTRICT ATTORNEY ROBERT E. MANLEY, for the  
People.

MESSRS. SCHLEIDER & SCHLEIDER, for the Defense.

TRANSCRIPT OF STENOGRAPHER'S MINUTES.

Frank S. Beard,  
Official Stenographer.

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THE PEOPLE'S TESTIMONY.

C L O V I S E. D U H A I N, of 92 Liberty Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HANLEY:

Q Mr. Duhaïn, you have just come here to New York from Charleston, South Carolina; have you not? A Yes, sir.

Q For the purpose of testifying in this case? A Yes, sir.

Q Now, what is your business? A I am connected with Mr. Pinkerton's Detective Agency. I am an assistant superintendent there.

Q Now, how long have you been an assistant superintendent with the Pinkerton Detective Agency? A I have been connected with the Agency going on 15 years.

Q And you have been an assistant superintendent how long? A Nine or ten years.

Q And have you a branch of the Pinkerton service that you are now looking after? A Well, I have, for several years, been looking after the race courses, both here in the East, and throughout Canada and the South.

Q And are you in New York City a good share of the time or do your duties call you out of town a good deal? A Why, when they are racing here, I am here in the East, but for

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several years I have been out of town a good deal.

Q. Now, on the fifth of January last, on the fifth of January of this year, I mean, were you in the vicinity of Market and Monroe Streets, in the City of New York, in the forenoon? A. Yes, sir.

Q. And did something attract your attention during the forenoon of that day? A. Yes, sir.

Q. And what time was it when that something attracted your attention in the forenoon of that day? A. Well, something after ten o'clock in the morning. I can't remember the time exactly.

Q. Well, was anybody with you at the time? A. Yes, sir. Inspector Kelleher, of Lawrence, Mass.

Q. He is a member of the police force there; is he?  
A. Yes, sir.

Q. And was any one else with you? A. Yes; a Mr. Herbst.

Q. Who is he? A. He is a jeweler.

Q. Where is he in business as a jeweler? A. In Lawrence, Mass.

Q. And were you doing at that time some investigation upon some criminal charge made by Herbst? A. Yes, sir.

Q. And is that the reason you were in that vicinity on that day and at that time? A. Yes, sir.

Q. Now, will you tell us more particularly where you were, with reference to the streets and sidewalks of those streets,

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on that day and at that time, when you say something attracted your attention? A The building at that corner is cut off, that is, the point of it, and the entrance of the building is on the point. I was standing there with these two gentlemen, when this defendant over here (indicating the defendant)---

Q Now, wait a minute. I want to get your position exactly. Now, were you on the west or east side of Market Street? A On the west side of Market Street.

Q And on the northwest or southwest corner? A Well, let's see. On the southwest corner.

Q Are you sure about that?—A No. Wait a minute. Northwest. I was a little puzzled as to the points of the compass, for a moment.

Q Now, were you standing at the curb line or near the building line at the time? A Right at the building line.

Q ~~And you testified that that building is cut off at the point?~~ A Yes; and the entrance to the store is there.

It is an empty store. The entrance is right there on a point.

Q Now, what was your object at that time, Captain, in stationing yourself at that point? A Well, we were trying to pick up two men that were wanted by the police at Lawrence, and we were expecting that these parties might come through there.

Q Yes. A As we had some data to the effect that ---

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Q Well, you don't have to tell what the data was. But you were watching people who passed; as I understand it?

A Yes, sir.

Q Now, what was it that attracted your attention there?

A This defendant came by me, coming down from the direction Madison Street.

Q Yes. And is Madison Street one block north of Monroe, at the corner at which you were standing? A Yes, sir.

Q All right. Go ahead. A And he went by me, and as he went by, he looked me, and I kind of glanced at him, and he went down a short distance, and came back, and looked at me again.

Q Now, when he went down a short distance, down what street did he go? A Down Monroe Street.

Q Yes. Go ahead. A And then he went down a short way, and came back again. And then the thought struck me ---

THE COURT: No, you cannot state that.

BY MR. HANLEY:

Q Well, did he go east or west on Monroe Street? A He went down east.

Q Well, is it the east? Now, here you are standing here, at the corner, and you say he came from the direction of Madison Street, which would be up this way (illustrating)? A Yes, sir.

Q And down here is Monroe Street (illustrating). Now,

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did he continue down Market Street or did he go at right angles to the point at which you were standing? A No; he came down and turned to his right, on Monroe Street.

Q Are you familiar with the streets down there? A No, sir, I'm not; I'm not much familiar with the streets down there.

MR. HANLEY: Well, I think we can take judicial notice of the fact that Catherine Street is the first street to the west of Market.

THE COURT: Yes.

THE WITNESS: Monroe Street just starts at Catharine; don't it?

BY MR. HANLEY:

Q Now, after he turned the corner, what did he do?

A He went down towards Catherine.

Q Yes. A A short distance, and came back again, and went by me again, and looked at me, and I looked at him; and, as he went around the corner, there was a store, I should judge about 25 feet from the corner, and there was a wagon parked in front of it, and he came down Market Street, towards Monroe.

Q Yes. A And he came up to the horse and puts his hand on the horse's head (illustrating).

Q Yes. A And he came up to the horse and I saw his jaws open (illustrating).

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Q Yes. And then he stepped around the horse. Well, I paid no attention to him after that, I didn't think anything of that, until the defendant was in charge of two men, they had a hold of him, and I went up and I said, "What's the trouble?" And they said, "He poisoned the horse."

Q Now, just a minute.

MR. SCHLEIDER: I object to that, and move to strike out what the other party said, "He poisoned the horse."

BY THE COURT:

Q Did the defendant make any reply at all? A No, sir.

Q Did they hold of him at the time, the two men? A Yes, they had hold of him.

Q Which one of the men said that? A You see, I didn't address my conversation to any particular one. I just said, "What's the trouble?" Two persons had hold of him.

THE COURT: What is your motion?

MR. SCHLEIDER: We move that the statement that "He poisoned the horse" be stricken out, as hearsay, and not binding on the defendant.

MR. MANLEY: Why, it was said right in the presence of the defendant. He was right there, held by the two men, one of whom made the remark.

MR. SCHLEIDER: But what about one else said about the defendant is not evidence; it's hearsay. That

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statement that he did something is not binding on the defendant.

MR. MANLEY: Why, your Honor, there is the case of the People against Ferrara, 199 N. Y. page 414, which fully supports my contention. I will read to your Honor a portion of that opinion. (Reads)

THE COURT: But did you know that they reversed that case?

MR. HANTLEY: No, not Ferrara.

THE COURT: Oh, yes. I think they reversed it, because one co-defendant made a statement in the presence of another defendant, where the co-defendant was behind prison bars.

MR. MANTLE: Well, I am not certain as to the reversal, but, if it was reversed, it was not on that ground, I am sure.

THE COURT: Do you mean the case of Ferrara, 199 N.Y.?

11. MANTON: Yes, 199 New York, page 414.

THE COURT: Well, I have never considered that case a good case. There is another case that I want to call your attention to, where there was a reversal. The case of the People against Conrow. They reversed the Conrow case. I had that case in mind when the Ferrara case was spoken of by you. Now, this is the Conrow case. In this case, the Court says ~~farther~~ (roads).

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MR. MANLEY: But it plainly says there that it is competent evidence but the value and effect of the testimony is for the jury, and that was even after the arrest of the defendant and after he was locked up.

THE COURT: If he makes any reply, it has some effect, yes.

MR. MANLEY: But, if your honor please, as I understand the rule, and I have given it very careful consideration, and though lawyers, of course, often disagree about the law, because of its magnitude and intricacy, it has always been my understanding that the rule is that, when a statement is made in the presence and hearing of the defendant, and he replies, you may show what his reply was, as bearing on his conduct subsequent to the doing of the act, as giving his explanation of the act. On the other hand, when a statement is made under circumstances where a man who is wrongfully accused would instinctively, impulsively reply, it is admissible, as showing the effect made by the statement on the defendant when made. Now, the Gascone case was reversed because he did not speak English and he was taken to the bedside of the person injured and he was told not to say anything.

THE COURT: No, that was the Kennedy case.

MR. MANLEY: Yes, sir, but I think it also occurred in the Gascone case. He was taken to the bedside of the

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person injured, and told to say nothing, and the statement made in his presence was held to be inadmissible.

THE COURT: The statement was made in writing by the injured man, I believe.

MR. MANLEY: Yes, sir. In fact, it was written on a piece of paper. Now, in the Ferrara case, the Court says further (reads). Now, for instance, in Kelly against the People, 55 New York, there the statements were made ---

THE COURT: I am familiar with that case. You need not quote that case.

MR. MANLEY: Very well, sir.

BY THE COURT:

Q. Mr. Duhain, how far was the defendant from you when the statement was made by this person, one of the two persons who had hold of the defendant? A Well, we were all standing right together. They had hold of him, two of these people, they had hold of this man, and I said, "What's the trouble?" And one of them said, "Why, he poisoned the horse." That's what attracted my attention to the thing, that remark.

MR. MANLEY: And I submit, your Honor, it certainly would be the natural insinct, under those circumstances, of a man charged ---

THE COURT: I am going to allow this evidence. I will overrule your objection, and deny your motion to

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strike out.

MR. SCHLEIDER: I take an exception. And we also except on the ground that there is no proof that the defendant understood the language in which the remark was made.

MR. MANLEY: I will connect it now.

MR. SCHLEIDER: Then do it now.

BY MR. MANLEY:

Q Now, in what language was that remark made? A In the English language.

MR. MANLEY: If your honor please, I will connect that and show his capacity to understand the remark, later on.

MR. SCHLEIDER: Very well.

BY MR. MANLEY:

Q Now, as I understand it, Captain, you testified that the horse's head was turned towards Monroe Street? A Yes, sir.

Q And you have testified that the defendant, after holding his hand under the mouth of the horse, and after you saw the jaws of the horse moving, the defendant walked towards-- walked around the horse, towards Madison Street? A Yes, sir.

Q And you lost sight of him for a while? A Yes, sir, until I noticed two men having hold of him.

Q And where did the two men have hold of the defendant when you saw him next? A Right on the sidewalk, right by the

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wagon.

Q On the west side of Market Street? A Yes, sir.

Q And how far from the wagon? A Well, I should judge only about the length of six feet.

Q And how soon was that after you had seen the defendant hold his hand under the horse's nose, and then walk around the horse? A Why, it must have been a couple of minutes.

Q And you have testified that two men had hold of the defendant when you next saw him after that? A Yes, sir.

Q Now, did you hear the defendant say anything at all when, as I understand it, in reply to your question, as to what was the matter, when they said, "He has poisoned the horse"? A No.

Q Did they stay there, right at that spot, with the defendant, or did they go away with the defendant? A They went away with the defendant.

Q In what direction? A They crossed Monroe street, and turned around that short corner there, where the barber shop is.

Q Well, do you know what street they went into? A Hamilton, I think it is called.

MR. MANLEY: I think we can take judicial notice that Hamilton Street is one block south of Monroe, your Honor.

THE COURT: Yes.

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BY MR. MANLEY:

Q Now, how soon after you had seen these two men have hold of the defendant, how long was it before they took him down towards Hamilton Street? A Oh, immediately. They were all going down there immediately, dragging him down.

Q Now, if you saw those two men again, would you recognize them, the two men that had the defendant? A Yes, sir.

Q Have you seen them around the building <sup>here,</sup> to-day? A Yes, sir.

MR. MANLEY: will you please call in Mr. Rubin and Mr. Cohen?

THE COURT: How long will you be with this witness, Mr. Manley?

MR. MANLEY: Some little time.

THE COURT: (Addressing the witness) Is it important that you should go back to Charleston, to-day?

THE WITNESS: Yes, sir. I want to leave by the nine o'clock to-night. I was to have gone back there yesterday. It is very important that I should be there, and it takes me 24 hours to get there.

MR. MANLEY: The Defense say that they will not take more than ten minutes for the cross examination, and I think I can get through with him quickly in the direct examination now.

THE COURT: Very well, then, proceed.

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BY MR. MANLEY:

Q Now, do you see here in court the two men who first had hold of the defendant? A Yes, sir.

Q Which men are they? Where are they? A Those two men there (indicating two men at the bar).

MR. MANLEY: The witness indicates Samuel C. Rubin and Benjamin Cohen, who stand at the bar.

MR. SCHLEIDER: May I ask at this stage that your Honor exclude all the witnesses? I forgot to make that request at the beginning of the case.

MR. MANLEY: witnesses on both sides?

MR. SCHLEIDER: Yes.

THE COURT: Yes, I so order.

BY MR. MANLEY:

Q Now, did you go anywhere right away after you saw what you have described, or did you remain on that corner?

A I went immediately to the head of the horse, and about that same time a man came out of the store.

Q Keep your voice up, please, Captain. A A man came out of the store by the name of Finkel, and he started ---

Q Now, wait a minute, Captain. My question is whether you remained there at the corner or not. A No, I went to the horse's head.

Q And, now, when you went to the horse's head, what did you see in reference to the horse? A Well, he had some kind

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or form of meal in his mouth, and I turned around and told this man ----

Q Now, you can't state that, because that is hearsay.

THE COURT: No, do not state that.

BY MR. MANLEY:

Q How long after you had gotten to the head of the horse, was it, before someone else came there? A About the same time.

Q And you said something to that man who came there?

A Yes, sir.

Q And did he do anything after you said something to him?

A He scraped this stuff out of the horse's mouth.

MR. MANLEY: Now we have Mr. Winkel produced now,

all your Honor please.

THE COURT: Yes. Bring him in.

BY MR. MANLEY:

Q And did he scrape it out of the horse's mouth?

A Well, stick.

Q And did you see him do anything with the meal that he scraped out of the horse's mouth? A Yes; he took a piece of paper and put the meal into the paper.

Q Can you describe how much of it was in the mouth of the horse; how much of that meal? A Oh, it was all through his mouth; in his teeth even.

Q And is that the man that scraped the stuff out of his

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mouth (indicating Mr. Finkel)? A Yes, sir. And he wrapped it up, and ran down the street; after he scraped it out, he ran to Hamilton Street, and down Hamilton Street, I suppose, to the police officer.

Q Did you still remain at the corner? A Yes, sir.

Q Did you see any police officer in that vicinity about that time? A Yes, sir, a police officer came along.

Q And did you learn his name afterwards? A Yes, sir, I think it was Officer Seigelman.

Q Now, did you say anything to him? A Yes.

Q And did Seigelman then stay there or go away? A He went down toward Hamilton Street.

Q And did you still remain on the corner? A Yes, sir.

Q And did anyone else attract your attention while you were there? A Yes; a man came up to take the horse, and, on the horse, was carrying away ---

Q Now you told us who it was that came after the horse? Have you seen him here in court? A Well, it was this first man that you just identified, Cohen.

Q Benjamin Cohen? A Yes, sir.

Q Did you see him take the horse away? A I saw him take the horse away. And the horse spit out some more of this mud before he was taken away, and I wrapped it up in a piece of blue paper, and I think I gave it to him, to Cohen, but I'm not sure about that.

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Q Gave it to whom? A To Mr. Cohen, or the proprietor of the store, Mr. Rubin. I'm not certain as to which one I gave it.

Q And you say that was what kind of paper that you wrapped it in? A Heavy blue paper. It looked to me as if it was a piece of paper used to wrap up macaroni.

Q Where did you get the paper? A It blew in the street.

Q You picked it up in the street? A Yes, sir.

Q Now, did you stay there after the horse was taken away or did you go somewhere? A I stayed there for a while.

Q Then where did you go? A Then I went to the police station.

Q To the police station of what precinct? A On Madison Street.

Q Now, just a minute. This --

Q Will you describe the position of that wagon on the street. A The wagon was backed to the curb, with the two hind wheels to the curb, and the horse facing towards Monroe Street (illustrating).

Q Now, that horse and wagon were about how many feet approximately from the corner of Monroe and Market? A Well, I should judge about 25 feet.

Q Was there any other horse and wagon backed up in that manner in that vicinity? A No, sir, not at that point.

Q Now, after you got to the Madison Street police station,

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did you go anywhere from there? A Yes, sir; I went to the Madison Street station and then I came to this court.

Q You came to a court in this building? A Yes, sir.

Q To what court in this building? A The Tombs Police Court, I think it is called.

Q You came to what they call the Tombs Police Court?

A Yes, sir.

Q And when you got there, whom did you see? A I saw the owner of the horse.

Q That is whom? Do you remember? Mr. Rich? A Yes, Mr. Rich. And I saw Mr. Cohen also.

Q The witness Cohen, you mean? A Yes, the witness Cohen and Finkel.

Q The witness Finkel? A Yes, sir; and the policeman, Geigelman.

Q And did you see any other police officers there?

A Yes, sir.

Q What are their names? A Well, I don't remember exactly.

Q Was one of them De Cantillon, a man in plain clothes?

A Yes, sir.

Q And was Landers the other officer? A Yes, sir.

Q Now, how long was that after you saw the defendant give something to the horse; how long after that was it that you came to the court in this building? A Oh, I should judge

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it was after a lapse of a couple of hours.

Q And did you see in court there the same blue paper that you had wrapped what the horse spat out in? A Yes, sir.

Q And which you had picked up in the street? A Yes, sir.

Q And did you examine it there? A Yes, sir.

Q And was that the same blue paper that you had wrapped around the contents that you saw fall from the horse's mouth, and was it the same contents, when you saw it in the police court? A Yes, sir.

Q Did you do anything with it in the police court?

A Yes, sir, I put my name on it.

Q What did you write on the paper? A C.E. Duhain.

Q I show you this piece of paper---

MR. MANLEY: And I ask to have it marked for identification before I show it to the witness. I ask to have it marked first People's Exhibit 1 for Identification.

(It is marked people's Exhibit 1 for Identification).

BY MR. MANLEY:

Q Now, at the time that you wrapped it up --- question withdrawn. At the time when you saw it in the police court, were the two white strips of paper that are pasted on there now there? A No, sir.

Q Now, do you see anywhere on the piece of paper your

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name, which you say you wrote on it in the police court?

A Yes, sir, righthere.

Q And that is what? What is written there? A C. E. Duhain.

Q Did you write anything else on there besides that?

A Yes, sir.

Q Is that your handwriting down there at the corner (indicating)? A Yes, sir.

Q And what is that you wrote on there? A "Saw same drop from the horse."

THE COURT: Well, that writing is not admissible, Mr. Manley.

MR. MANLEY: It is merely for the purpose of identification, if your Honor please.

THE COURT: The writing does not bind the defendant. This evidence is allowed only as bearing on the question of identification.

MR. MANLEY: Yes, that's all. I simply want to put it in the record for that reason, for the purpose of identification only; not as evidence of the contents of the writing at all.

THE COURT: Very well.

BY MR. MANLEY:

Q Now, to whom did you deliver that paper in the police court, or, rather, who did you see have it there? A I saw

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De Cantillon and the other officer have it.

Q Did you see Officer Lawler in the police court also?

A Yes, sir, they had it in their possession at the time, the officers.

Q The officers had it in their possession? A Yes, sir.

Q Including Officer Lawler? A Yes, sir.

Q And in the police court did you see the other package, which had been done up in ordinary paper? A Yes, sir.

MR. MANLEY: You may examine.

CROSS EXAMINATION BY MR. SCHLEIDER:

Q Do you live in the City of New York? A Well, Brooklyn is my home, when I am there.

Q Well, what is your address? A Well, I have no address in the City of New York, now. I'm out of town just at present. I am living in Charleston, South Carolina now.

Q Now, when you do live in Brooklyn where do you live?

A At 473 Fourth Street, between Seventh and Eighth Avenues.

Q Now, about what time on the fifth of January did you get to this neighborhood, the vicinity of 48 Market Street? A I think about eight o'clock in the morning.

Q And did you stay at the same corner all the time up to the time of this incident? A Yes, sir.

Q As I understood you you were along with two other gentlemen? A One was another officer and the gentleman was

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in the jewelry business.

Q He was a client of yours? A No, sir, no client.

Q Now, are those two other gentlemen here in court?

A I haven't seen them.

Q Haven't seen them? A No, sir.

Q Had they been here yesterday? A No.

MR. MANLEY: I haven't subpoenaed them. They are not here at all.

BY MR. SCHLEIDER:

Q Now, those two gentlemen were with you for about two hours or two hours and a half, that day? A Yes, sir, at that time but we had been there ---

Q They were there at the time the arrest was made?

A Yes, sir.

Q They were there at the time you claim you saw the defendant give something to the horse? A Yes, sir.

Q Will you be good enough to tell me the names of those two persons? A One is Mr. Herbst and other is Inspector Kelleher, both from Lawrence, Massachusetts.

Q Now, were you talking to those gentlemen during the two hours or two hours and a half? A Part of the time.

Q 45 Market Street or the place where this thing happened is quite a busy thoroughfare; is it not? A Well, it wasn't, because it was a very cold day and blowing very hard, and there was hardly anybody on the street.

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Q Well, you don't mean to say that there was no one there except you and the other two gentlemen? A There were very few people on the street.

Q Very few. But some people were there A Oh, yes, some people passing up and down.

Q And there were at least five or six people, weren't there, passing up and down? A Oh, yes, and more than that, I guess, but I didn't pay any attention to that.

Q At the time you saw the defendant give something to the horse? A I didn't see any at that time.

Q Well, immediately prior to it? A Well, during the time that I was there.

Q Well, let me understand you. You mean during the two hours and a half, only five or six people passed? A Oh, no, quite a few people passed during that time.

Q Well, only a minute or two before you saw the defendant give something to the horse, how many people did you see pass that neighborhood? A Well, I couldn't say as to that. I didn't notice any.

Q A few? A Well, I couldn't say.

Q Well, some persons passed? A Well, I wouldn't say that, I couldn't say so.

Q Well, at the particular moment when you noticed this defendant give something to the horse in question will you swear that there was not one or more persons passing the

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place where the horse and wagon was standing? A There was no one passing between us. That I know.

Q Now? A There was no one that passed between us.

Q Well, was there anybody at that corner or near that corner, besides you and your two friends and this defendant?

A No, not at the corner or near the corner.

Q And you swear to that positively? A Yes, I do.

Q And this was in the daytime? A Yes, sir.

Q It was simply a cold day? A Yes, sir.

Q And it wasn't raining or anything of that kind? A No; but it was blowing very hard.

Q Now, you were looking out for a certain person, you were looking for somebody in particular; weren't you?

BY THE COURT: He said so.

A Two people.

BY THE COURT:

Q Two people? A Yes, sir.

Q And you looked all around; didn't you? You wanted to be sure to see those people if they came along? A Yes, sir, but we were looking in that direction watching for two people.

Q And how far was the horse and wagon from the corner of Monroe Street? A About 25 feet. It might have been a little more, but about that.

BY THE COURT:

Q And towards Madison Street? A Yes, sir, towards

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Madison Street.

BY MR. SCHLEIDER:

Q After you saw the defendant once, you say you saw him walking along and he looked you over? A Yes.

Q And then he walked back to where the horse and wagon was? A Yes.

Q Did you have to turn around to see him walk back or did you face him all the time? A I was right on the corner. The building is cut off this way (illustrating), you see, and I was right at this point.

Q Well, which way were you looking? Towards Monroe or Market Street, at the time you were standing there? A I was looking towards that school building that is over there.

Q Well, do you know what street that school building is in? A Well, I should judge that is part of Hamilton Street. There is quite a large square there, you know.

Q Well, you were looking south (indicating)? A No, it wouldn't be south. I was looking north.

Q Well, were you looking north? A Yes, sir.

Q Now, did you know from what street that you were expecting them to come from; did you have any idea about that? A Well, we figured that they would come from the direction of Monroe towards Catherine, or possibly --- we would know the exact spot they were in, but we had a good view down at the lower section also.

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Q Now, when you saw the defendant, or some other person, give something to the horse, how far away were you from him at the time? A I should judge about 25 feet.

Q Did you have your eye on him all the time? A I looked at him, yes.

Q Well, of course, you looked at him, but why did you look at him? A Well, what struck me was, I thought he was doing some scouting around there.

Q Some scouting? A Yes, sir; I thought he was one of the advance agents of the people that we were looking for, and I thought he was looking around to see who was in the neighborhood, and that's what attracted my attention to him as much as anything.

Q You were about 25 feet away from him? A Yes, sir.

Q When he went up to the horse? And you didn't watch him the entire 25 feet, did you, up to the moment he went up to the horse? A Yes, I just wanted to see where he was going.

Q And did you see him go over to the horse and actually put something into the horse's mouth? A Yes, sir, I saw him go up to the horse, and put his hand, this way, under the horse's mouth (illustrating).

Q And do you know what he had this object or the substance that he put into the horse's mouth? A I didn't see any substance that he put into the horse's mouth. I didn't

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see him put anything in the horse's mouth.

Q Well, did you see him put his bare hand into the horse's mouth? A No, I just saw him go up to the horse, this way, (illustrating), and hold his hand, this way (illustrating), under the horse's mouth.

Q You saw him just put his open palm under the horse's mouth, his bare palm? A Yes, sir.

Q And after that how long a time elapsed until your attention was again attracted to this defendant? A I should judge a couple of minutes.

Q Two or three minutes? A A couple of minutes.

Q And you didn't watch the defendant again until your attention was again attracted to him? A No, I lost sight of him when he went around back of the horse and wagon.

Q You don't know what took place during those two or three minutes, concerning the defendant and the horse and wagon; do you? A No, sir. But, about two minutes after that, I saw these two men having hold of the defendant.

Q Now, when the defendant passed you by, and looked you over, you are sure that you saw him distinctly, and that it is this man (indicating the defendant)? There is no question in your mind about that? A No question whatever.

Q Now, have you ever seen men looking at buildings and signs when they are looking for work? You have seen that in your life; haven't you? A Oh, yes, certainly.

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Q And when he passed you by, didn't he look up at the building? A I was standing in front of an empty store.

Q But he "looked at the building; didn't he? A He looked at me.

Q But he looked at the building, too? A I don't know about that. I was in front of a building and he looked at me. I don't know whether he looked at the building, too.

Q Well, but there were other buildings at or near where you were standing? A Well, I was standing in front of an empty store. It was a building, of course, too.

Q And there was a building after that store, too; was there not? A What do you mean by "after"?

Q I mean there was another store there? A Yes; the store was directly in the back of this building that this wagon was backed up to.

Q Well, but there were tenement houses, and smaller and larger houses, all around there; weren't there? A Yes, sir.

Q And there were some shops in that neighborhood, too? A Yes; right across the street is a barber shop.

Q Did you notice any other shops, cloak and skirt shops or any buildings of that kind? A Not at the corner where I was. There was absolutely nothing there but that empty store there, and the store where the wagon was backed up to.

Q But I mean on that block? A I don't know what was

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there beyond that. I didn't notice.

Q Now, after the two or three minutes, when you saw him again, about how many persons did you see around the defendant?

A I saw two people have a hold of him, and there might have been one or two people came along then.

Q Well, there was quite a crowd there; was there not?

A No, sir, not much of a crowd.

Q Well, five or six persons altogether? A Well, there was this defendant, the two men that had hold of him, and there might have been one or two more persons there.

Q And when you saw the defendant look at you and walk past you again and go over to the horse and give him something, he didn't excite your suspicion at all; did he?

A I had no reason to be suspicious of anything.

Q Well, his conduct was not in any way extraordinary, that made you suspicious that he would want to molest the horse, because he went over to him; was it? A No, sir.

Q From the way he acted, there was nothing suspicious about it? A Yes, there was something suspicious about the way he acted, sure.

Q And you have been a Pinkerton detective a great many years; is that correct? A Yes.

Q And this man, at the time he went over to the horse, didn't it appear to you that he was going to give that horse some poison or something like that? A No, sir, it didn't. In fact,

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I didn't know that anything of that kind was going on.

MR. SCHLEIDER: Now, I ask that that be stricken out as not responsive.

THE COURT: Yes, strike it out.

BY MR. SCHLEIDER:

Q But I want to know if you thought he was going to hurt that horse by something that he gave it to eat? A No, I didn't.

Q Did you talk to the complainant, Mr. Rich, after this man was arrested, or during the time that he was arrested?

A I saw him in the courtroom.

Q You saw him in the courtroom? A Yes, sir.

Q Yesterday? A Oh, no; the day he was arrested.

Q How many times did you speak to the complaining witness since? A I've spoken to him most every time I've been here.

Q How long did it take from the time the statement was made that the horse was poisoned or that the defendant poisoned the horse, up to the time the officer came? A Well, the officer came thereabout a couple of minutes after, I should judge.

Q About five minutes? A Oh, no, not as much as that.

Q About three minutes? A Oh, two or three minutes after. I couldn't say exactly as to the time.

Q And you saw the defendant and you knew that he was the man who gave the horse something? A Yes.

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Q And you knew that, if what he gave the horse was poison, you knew that he committed a crime? A Eh?

Q I say that you knew it was a crime to poison horses?

A Yes, certainly.

Q And still you never went over to this man, and never arrested him at all? A No; because there were two other men had a hold off him.

Q But you knew that you had a right to arrest him, if the fact was he had poisoned the horse? A I did; but he was already in custody.

Q But he wasn't arrested then; was he? A I don't know whether he was or not.

MR. SCHNEIDER: That is all.

MR. MANLEY: I just want to ask him two or three more questions, if your Honor please, with the court's permission.

THE COURT: Certainly.

RE DIRECT EXAMINATION BY MR. MANLEY:

Q You had started to tell what was the suspicious circumstance that attracted you to the defendant. What was it?

A Well, the way he was looking me over, and I figured that he was doing some scouting, and was looking around the neighborhood to see who was there.

Q Now, will you describe the appearance of that substance

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that was taken from the mouth of the horse? A Well, it looked like ground flaxseed meal.

Q Well, what was its color? A And it was the color of flaxseed meal, a kind of brown color.

Q Now, at the time that you looked at the defendant again, after several minutes had elapsed, after the defendant had been around the horse, and disappeared and returned, when your eye first fell upon him again, and upon the two men that were with him, was anybody else standing with them? A No, sir.

BY THE COURT:

Q At the time you saw the defendant pass around the horse, did you see any other person near that horse? A There was no other person near that horse, or between us, between the defendant and myself.

RE DIRECT EXAMINATION BY MR. SCHNEIDER:

Q Of course, you don't know, Mr. Duhain, as to whether the substance that came out of the horse was any part of the substance that was given to the horse by the defendant, if anything was given?

MR. HANLEY: I object to that, because that is an inference from the facts, for the jury to draw. He has described what he saw.

MR. SCHNEIDER: But I think that is very material.

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THE COURT: Well, but the witness says he did not see anything in the hand of the defendant, at the time he held his hand under the mouth of the horse.

MR. SCHLEIDER: Very well, then, I will not press the question. That is all.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure and adjourned the further trial, of the case until Thursday morning, March 14th, 1912, at 10:30 o'clock).

MR. MANLEY: Oh, one moment, if your honor please. There was one thing that I forgot. May I ask counsel for the defense if there is any other question that he wants to ask of Mr. Duhain, because he wants to leave to-night?

MR. SCHLEIDER: No, your honor. I will not ask him anything more.

MR. MANLEY: Very well, then. Mr. Duhain may leave the city to return to Charleston?

MR. SCHLEIDER: Yes, as far as I am concerned, he may. I don't wish to ask him anything further.

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## TRIAL RESUMED.

New York, March 14th, 1912.

BENJAMIN COHEN, of 147 Madison Street, a witness  
~~called~~ on behalf of the People, being duly sworn and  
examined through the Official Interpreter, Mr. Rosenthal,  
testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q. Now, your name is Benjamin Cohen, and you live where?

A. 147 Madison Street.

MR. SCHLESINGER: Perhaps the witness can speak  
English, your Honor.MR. MANLEY: He can't speak English well enough to  
proceed at all. I've always had to use an interpreter.  
Do you know that he can speak English?MR. SCHLESINGER: Well, I am informed that he can  
speak English. Suppose we try him in English.

MR. MANLEY: Do you know that he can speak English?

MR. SCHLESINGER: No, I don't. Is there any harm in  
trying? The jury can understand him better in English.MR. MANLEY: I have tried several times, but have  
been unable to talk with him, except through an inter-  
preter.

THE COURT: Proceed through an interpreter.

BY MR. MANLEY:

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Q Now, upon the 5th day of last January, did you work for the firm Rubin & Wilner, 53 Market Street? A Yes, sir.

Q And what kind of work did you do for them? A Grocery business, driver.

Q And how long had you worked for them, for that firm?

A About 18 or 19 months.

Q And what kind of a rig did you drive for them; how many horses? A One horse.

Q And whereabouts was that horse kept? A In Hamilton Street, by Cohen & Rich.

Q Cohen, Rich & Cohen; is that the firm name? A Yes, sir.

Q And was that firm in business at 14 Hamilton Street?

A I don't know the number exactly but it seems to me the number was 12, but I don't know exactly.

Q Now, was that horse rented by Rubin & Wilner, and did it belong to that firm of Cohen, Rich & Cohen? A The horse was rented by Cohen & Rich.

Q And had you before Friday the 5th of January used that same horse in business for quite a while? A Yes, sir.

Q What color was that horse? A Brownish.

Q Upon Friday, the 5th day of January, at what time in the morning did you get the horse from the stable on Hamilton Street? A On that morning I took out the horse about half past seven o'clock.

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Q Did you see Mr. Rich there in the stable when you took the horse out? A Yes, sir.

Q Now, where did you take the horse, that morning? What kind of business did you do, that morning, with the horse?

A On that morning I was taking away some orders to customers on the wagon.

Q What kind of a rig was it? Describe the wagon?

A On the wagon there was printed the name of Rubin & Wilner, 53 Market Street, wholesale grocers.

Q Was the name of the firm of Cohen, Rich & Cohen on the wagon at all? A No.

Q Now, some time in the forenoon of that day, Friday the 5th of January, did you bring the rig back to 53 Market Street, the place of business of Rubin & Wilner? A Yes, sir, back to the stable.

Q What? A Back to the stable.

Q No. I say, did you bring it back to 53 Market Street, some time that forenoon? A Yes, sir.

Q That is, near the store of Rubin & Wilner? A Yes, sir.

Q About what time was it when you got the horse there, that morning? A About ten, after ten, about ten.

Q Now, when you got the horse back to the store, about ten o'clock that morning, did you leave the horse and wagon standing in front of that store? A Yes, sir.

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Q And did you go into the store or did you remain with the horse and wagon? A I went into the store.

Q Will you just tell the Court and jury what the position of the rig was on the street, just what its position was on the street? A I backed up the wagon towards the sidewalk.

Q So that would bring what part of the wagon towards the curb, towards the sidewalk, the edge of it? A The back part of the wagon near the sidewalk, towards the sidewalk.

Q Do you mean the rear wheels? A Yes, sir, towards the sidewalk.

Q And the head of the horse was in what direction? A Towards Monroe Street.

Q What is that, as you stood in front of the store, as I understand it, and looked around towards the rig, the horse's head was towards the right, down towards Monroe Street; is that right? A Straight towards Monroe Street.

Q And towards the right, as you stood at the rear of the wagon; is that right? A I don't understand the question.

Q Here you are, standing right in front of the grocery store (illustrating). That is, I am supposing that I am standing in front of the grocery store, and there is the wagon right in front of me, the two wheels of the wagon, and Monroe Street is towards the right, and, if the horse's head is towards Monroe Street, it is towards the right of a man standing

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as I am standing; is that right? A Yes; so it was.

Q Now, when you went into the store, was your horse standing by itself alone, without anybody being in the rig?

A No one was in the wagon. The horse was standing alone.

Q Was the horse hitched or unhitched? I mean was the horse tied or untied when you went into the store? A He was standing plainly, without being hitched.

Q Now, when you went into the store, into what part of it did you go? A I was in the back of the store and afterwards I came to the door of the store.

Q How long had you been in the store before you came up to the door? A About 15 minutes.

Q That is, before you came and stood at the door?

A In the store 15 minutes, yes.

Q I am not asking the length of time that you stood in the store altogether, but I am asking how many minutes elapsed before you went from the back end of the store, and stood at the door? A About ten minutes.

Q Now, answer this yes or no. Had anybody said anything to you about keeping your eye upon that horse? A Yes, sir.

Q How long before that day was it that someone told you to keep your eye upon the horse? A About two or three weeks before that.

Q And who was the person that told you to keep your eye upon the horse? A It was Cohen.

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Q The Cohen that belonged to the firm that owned the horse, Cohen, Rich & Cohen? A Yes, one of the partners.

Q Yes, that is one of the partners in the firm of Cohen, Rich & Cohen? A Yes, sir.

Q Now, after you had been in the store ten minutes, then came to the door, will you state to the jury what you saw? A I saw a man coming up to the horse and he gave the horse something to eat.

Q Now, you say you saw the man come from what direction did he come to the horse? A From Monroe Street.

Q Will you make the same motion with your hand that you saw the man make to the horse? A Here - in the sidewalk (illustrating), and the horse is about there.

Q Yes. A And then he came to the horse, and stretched out his hand, and handed something to the horse, gave something to the horse (illustrating).

Q Did you notice at that time what kind of a head-piece the man had on his head, what kind of a hat? A I can't remember that.

Q Was there anybody near the horse when he held his hand under the horse's mouth? A No.

Q After he had done that, what did that man next do? A He went away.

Q In what direction did he go away, with reference to the horse? A He went up towards Madison Street.

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Q Did he come between you and the horse and wagon, or was the horse and wagon between you and him, when he went towards Madison Street? A I caught him further up from the wagon, away from the wagon.

Q At the time when he started from the horse's head, you say that he began to walk towards Madison Street. When he began to walk towards Madison Street, was the horse and wagon between you and him? A The wagon was between.

Q Did you see anything about the horse's head, did you notice anything about its jaws, when the man held out his hand in front of the horse? A I saw the horse chewing something.

Q Well, now, what did you do after you had seen that? A I got frightened, and ran out.

Q Could you ~~tell~~ the jury how many feet you stood in the store from the head of the horse? A I can't tell exactly, about ten steps.

Q Well, now, when you ran out where did you go? A I was in Market Street, and then I went out towards Madison Street, up to Madison.

Q When you left the store what did you intend to do? A I wanted to catch the man, because I saw the horse eating something.

Q Now, when you went out from the store, and got on to the sidewalk and looked on the other side of the horse and

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wagon, what did you see? A You mean on the sidewalk or in the middle of the street?

Q When you got onto the sidewalk, as you were coming out of the door and got out on the street, so that you could see the other side of the wagon, what did you see? A On the other side, I didn't see anything.

Q Well, what did you see around the horse and wagon? A I didn't see anything.

Q Did you see this defendant, Jacob Cohen, when you got out on the street? A When I caught him, I saw him.

Q Now, at what point was it that you saw him? A Market Street towards Madison Street.

Q In what direction --- question withdrawn. Was he walking or standing when you caught him? A He was walking ordinarily.

Q Was he walking on the street or the sidewalk? A On the street.

Q In what direction was he walking when you caught him? A He was walking on Market Street, towards Madison.

Q About how many feet would you say from the nearest part of the horse and wagon towards Jacob Cohen, was he when you caught him? A About 50 steps.

Q Did you say anything to him when you caught him? A Yes, sir.

Q In what language did you say it? A I don't remember.

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exactly, Yiddish or English, but I think Yiddish, and I asked him, "What did you give to the horse?"

Q And what did he say? A He said he doesn't know anything about it.

Q Now, when he said that, right after that, did you say anything else to him at that time, while you and he were at that same spot? A I told him, "You did probably give him something yourself."

Q And did he say anything to that? A He said he didn't know about anything.

Q Did you tell him what you had seen when the man was at the horse's head, at that time? A I didn't say that to him.

Q At the time that you caught him, as you say, about 30 paces from the wagon, was anybody beside him?

THE COURT: Have you had him describe what is a pace, what he means by a pace?

MR. MANLEY: I will ask him that in a moment, sir.

(Question repeated by the stenographer).

A He was alone.

BY MR. MANLEY:

Q Now, when you say you caught him about 30 paces from the wagon, tell us what you mean by that, how many feet you think that was? A I call a pace what a person ordinarily steps out in walking.

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Q Then you mean by a pace a step? A Yes, sir.

Q You caught him about 30 steps from the wagon; is that it? A Yes, sir, about 30 steps.

Q Now, right after you caught him, what did you do with him? A I said to him, "Come with me."

Q What did he say when you said that? A He went along.

Q Where did you take him? A In Hamilton Street; I took him to Hamilton street.

Q Did anybody go with you and the defendant? A My boss, Mr. Rubin, went with me.

Q Now, where were you when Mr. Rubin, your boss, came out into the street? A I was on the street, and I called out, "Mr. Rubin," and when Mr. Rubin came out of the store, and we went together.

Q How near were you to the horse and wagon when Mr. Rubin came over to where you and the defendant Cohen were? A I don't know. Perhaps five steps, or ten steps. I can't tell that.

Q Did you say anything to Mr. Rubin about what you had seen, in the presence of the defendant? A Yes, sir.

Q In what language did you say it? A Yiddish.

Q What did you say in the presence and hearing of the defendant? A I said, "Mr. Rubin, the horse is eating something. It appears to me that the man has given the horse something to eat."

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Q. Now, when you said that in the presence of the defendant, did the defendant say anything in reply to it?

A. He said that he didn't know about anything; that he didn't know anything about it.

Q. Did he say anything else besides that? A. No, he didn't.

Q. Now, how soon was it after Mr. Rubin came out that you and Mr. Rubin started around to Hamilton Street? A. I don't understand the question.

Q. Mr. Rubin came out of the store, when you called him?

A. Yes, sir.

Q. And did you and Mr. Rubin and the defendant start at once around to Hamilton Street, or did you remain on the street a while before you started? A. Mr. Rubin was searching in his pockets, whether he had something (illustrating). Mr. Rubin got frightened, and he looked into the pockets of the defendant to see whether anything was in there.

Q. Did you stand very long on the street, you and Mr. Rubin, before you started to Hamilton Street? A. No, we soon went to Hamilton Street, we took him and lead him up to Hamilton Street.

Q. Now, did you see Samuel Singer on the street near the horse and rig, before you started for Hamilton Street? A. No, sir.

Q. Did you take another look at the head of the horse

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before you started for Hamilton Street? A No.

Q Now, did you at the time when you stood there in the door of the store, and saw a man go up and put his hand under the nose of the horse, did you get a good enough look at the man to tell who he was? A I saw a man, but I didn't look exactly at his face. I thought some man gives the horse a piece of bread.

Q Did you get a good look at the man at the time when he stood at the head of the horse? Did he stand there long enough for you to get a good look at the man?

MR. SCHLEIDER: Objected to.

THE COURT: Objected to. *you overruled.*

MR. SCHLEIDER: Exception.

A At that time I didn't look at the face at all.

BY MR. MANIFY:

Q What part of his body was towards you when the man held his hand under the horse's nose? A The back was towards me.

Q How long did the man stand in front of the horse before he started to walk around the horse? A Perhaps a second. He gave the horse something and went away, and the horse got it, and chewed at it.

Q Now, you say, as I understand it, that the defendant is the man that you grabbed in the street?

MR. SCHLEIDER: Objected to, as leading, if your Honor please.

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MR. MANLEY: It is simply a repetition of the testimony, if your Honor please.

THE COURT: Sustained.

A Yes.

BY MR. MANLEY:

Q Now, where did you go to in Hamilton Street? A To the Street Cleaning Department stable, and we met two policemen in the door of the stable.

Q You mean the Street Cleaning Department stable?

A Yes, sir.

Q And how far is that in Hamilton Street from Market Street? A Well, perhaps a block, or a block and a half.

Q Well, doesn't Hamilton Street run from Market to Catherine? A Yes, it goes to Catherine Street.

Q Now, is the stable of the Street Cleaning Department nearer Market or Catherine Street? A Nearer to Market Street.

Q And the stable of Mr. Cohen, the owner of the horse, is nearer which street, Market or Catherine? A It's nearer to Catherine Street.

Q So, on the way to Mr. Rich's stable, you had to pass the stable of the Street Cleaning Department; is that it?

A Yes, sir.

Q Now, when you got around to the stable of the Street Cleaning Department, did you, in a little while, see Officer Geiselman? A I saw two policemen, and I saw them then for

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the first time.

MR. MANLEY: Will you call in Officer Geiselman?

BY MR. MANLEY:

Q Well, now, did you stay right there in front of the Street Cleaning Department stable, with Jacob Cohen, the defendant, or did you go away some where? A When I and Rubin brought up the defendant to the Street Cleaning Department stable, Mr. Rubin said to the policeman something in English.

Q Now, do you remember whether the police officer standing there was one of the men that you saw standing in front of the stable (indicating an officer standing at the bar)?

A I can't remember. Maybe I seen him. It's possible that I have seen him.

Q All right. Did you stay in front of the Street Cleaning stable, or did you go somewhere? A I brought up the man to that place, and I went to Market street.

Q Whereabouts in Market street? Did you go back to where the horse and wagon was? A Yes, sir.

Q And what did you do with the horse and wagon? A I brought him to the stable.

Q Whose stable? A Cohen & Rich.

Q And did you leave the horse there? A Yes, sir.

Q Where did you go next? A To the police station.

Q On what street? A Oak Street.

Q And from Oak Street station house where did you go next? A A man took us over here.

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Q Down to the police court in this building; is it?

A Yes, sir.

Q And did you see Mr. Duhan in this building, a big fat man, in this building? A Yes, sir, a big fat man.

MR. MANTLEY: You may examine.

CROSS EXAMINATION BY MR. SCHLEIDER:

Q Where do you live, Mr. Cohen? A 147 Madison Street.

Q And how long have you been working for Rubin & Wilner?

A About 18 or 19 months.

Q And this particular horse that you claim was poisoned, how many times did you drive it? A I can't remember exactly, but I think about five or six weeks.

Q And during those five or six weeks that you had this horse, you also drove other horses of Rich & Cohen; did you not? A Yes.

Q Now, when before January 5th, did you have this horse out? A A week before or two weeks before or what? A About five or six weeks before the 5th of January.

Q Now, you say that you were told by Mr. Rich, or Mr. Cohen about two or three weeks before this horse was poisoned, to have an eye on the horses that you drive; is that correct? A Yes, sir.

Q Now, on the morning of this incident, you took this horse out at 7:30 and brought it back to Rubin & Wilner at ten or half past ten? A Yes, on the 5th of January.

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Q How many places did you drive to with this horse, during those three hours, to how many customers? A I had four or five customers, but I don't remember exactly how I was driving around, because it's a long time ago.

Q And these customers were in different streets in the City of New York, in different neighborhoods? A Yes, on different streets.

Q Now, did you have a helper when you delivered the goods, that morning? A No.

Q And when you would take the goods off the wagon, you would take it on the sidewalk and then into the store? A I would take it off the wagon and bring it into the store.

Q And during the time that you are in the store, the horse is left unattended in the street, is left alone on the street? A No one was near the horse.

Q So that you don't know whether anybody came over to that horse, and gave anything to the horse, while you were in the various stores delivering goods; do you?

MR. MAHEY: Objected to.

THE COURT: Sustained.

BY MR. SCHMIDT:

Q Now, after you placed the horse again in front of Rubin & Vilner's place, you went into the store for about 15 minutes; is that right? A About ten minutes.

Q Now, what first attracted your attention to this

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horse? A I saw the horse eating something.

Q Is that the first thing that attracted your attention to the horse; are you sure of that? A Then I saw a man come up before that, and afterwards I saw that the horse was eating something.

Q Now, this man that you saw, where were you at the time when you first laid your eyes upon the man that you claim went over and gave the horse something to eat, just where were you? A I was in the store.

BY THE COURT:

Q What part of the store? A By the door.

Q How many feet away from the horse? A I don't know exactly. I can't tell, but I think about ten steps.

Q Were you on the inside or outside of the store?

A Inside of the store.

BY MR. SCHLEIDER:

Q And how far away from the doors of the store were you when you first saw the man that you say gave something to the horse; how far inside of the store were you when you first laid eyes on him? A Perhaps a step or two.

Q Was it after you were in the store for ten minutes that you were a step or two from the doors, or were you a step or two from the doors all the time? A At first I was inside, in the rear of the store, and then I came to the front, near the door.

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Q This thing happened on a winter morning; did it not?

THE COURT: That is conceded, counsel. It occurred in January.

BY MR. SCHLEIDER:

Q Were the doors open or closed? A Closed.

Q And how many feet away were you from the front doors at the time when you first saw the man? A As I said, about a step or two.

Q Two or three feet? A Yes, sir.

Q Do you know how wide the sidewalk is in front of that store? A I can't tell exactly how wide it is.

MR. SCHLEIDER: Will you concede that it is about 12 feet, Mr. Manley, for the sake of the record?

THE COURT: You mean from the ----

MR. SCHLEIDER: From the house line to the edge of the curb.

MR. MANLEY: Well, perhaps we had better wait until we get Mr. Rubin on the stand. I can't concede what I don't know.

BY MR. SCHLEIDER:

Q Will you indicate how far it is from where you sit, how far it is from the door of the store to the curb, to the edge of the curb on the sidewalk, to the gutter, how wide the sidewalk is? A It is as far, perhaps, as from here to the counsel table. I don't know. Perhaps.

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MR. SCHLEIDER: Will you concede that that is about 14 feet, from where he is sitting up to the table, Mr. Manley?

MR. MANLEY: Yes.

BY MR. SCHLEIDER:

Q And this wagon was about five or six feet wide; wasn't it? A You mean long, or how?

Q I want to get the width and the length? A About that wide (illustrating).

MR. SCHLEIDER: That's about five feet.

BY MR. SCHLEIDER:

Q And how long was this wagon? A As far as from this witness chair to the corner of the attorney's table, the District Attorney's table.

Q Well, about nine feet? A So I think, about that.

Q And the horse was at the end of the wagon; wasn't it?

A Yes.

Q The horse was facing Monroe Street, wasn't it, this way (illustrating)? A Yes.

Q And did the doors of the store have wooden or glass panels? A They are wooden doors, but with glass in them.

Q Glasspanels? A Yes.

Q What kind of glass is it? Glass like these windows (indicating the courtroom windows), or other kind of glass?

A Thick glass, but one can look through.

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Q Are there any boxes or barrels near those doors, standing one upon the other?

MR. MANLEY: That is, you mean were there, at the time?

MR. SCHNEIDER: Yes, at the time.

A Do you mean inside or outside of the store?

BY MR. SCHNEIDER:

Q Inside of the store? A Barrels are standing near the door, at the door, and then sacks.

Q Now, on the day that this horse was poisoned, there were barrels near that door and sacks of different kinds of goods on those barrels; were there not? A Not large sacks, but small sacks.

Q And these barrels and sacks that were there in the morning, at the time that this horse was poisoned, were about seven or eight feet from the floor; were they not? A I can't tell how many feet, but I can show about how high.

Q Well, suppose that you go to that window (indicating), and point out there how far these barrels and sacks extended up from the floor? Just go there and show it? A Well, is it a question of how it was, that morning, or generally?

MR. MANLEY: I should think so, I should suppose that it should refer to that morning only.

BY MR. SCHNEIDER:

Q Now, on that morning, just tell us how far these sacks

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extended up above the barrels? A Up above that high (illustrating).

MR. SCHLEIDER: How high is that, Mr. Foreman?

THE FOREMAN: About five feet.

MR. SCHLEIDER: Whatever the Foreman says. The witness extends his hand right straight out from his shoulder. Let that appear on the record.

BY MR. SCHLEIDER:

Q Now, can you walk fast or run fast? A I can walk or run ordinarily.

Q Now, from the moment that you saw a man go out to the horse and give the horse something, it aroused your suspicion; did it not? A No, at that time, nothing.

Q Now, just tell us what you saw this person do, or how you saw him go over to the horse, and just what he did which caused you no suspicion at all? A From the sidewalk he went over this way to the horse (illustrating), and he stretched out his hand.

Q Now, at that time when you saw him go over to the horse, stretch out his hand, and put his hand towards the horse's mouth and give the horse something, at that time you had no suspicion at all against the man? A When I saw the horse chewing at something, then a thought came into my mind, "Perhaps the horse is poisoned."

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MR. SCHLEIDER: Now, I ask that that answer be stricken out as irresponsible.

MR. MANLEY: I should say that that answer is responsive.

THE COURT: Motion denied.

MR. SCHLEIDER: Exception.

BY MR. SCHLEIDER:

Q How long did it take you from the time the man walked over to the horse, and gave the horse something, in Monroe Street, was it until you had your hands on him? A It could take about a minute or a minute and a half; I can't remember.

Q About a minute or a minute and a half? A Yes, sir.

Q How long would it take you to walk about 30 or 40 feet?

THE COURT: Well, what is the object of that question?

MR. SCHLEIDER: The object is to show that, if he really did see what he claims he did see, your Honor, and if he had been told that he must keep an eye on the horse, he would have made a rush, and made a grab for the man, and not waited a minute or two.

THE COURT: The remarks of counsel will be disregarded by the jury. But I do not see the purpose of the question.

MR. SCHLEIDER: Well, the way we have figured it out, he wouldn't be more than 30 or 40 feet from the man



altogether. Now, if it would take that time, two minutes, for him to get that far to the man ---

BY THE COURT:

Q Well, how long would it take you to walk 30 feet?

A Only a minute, perhaps; maybe not so long.

BY MR. SCHLEIDER:

Q Well, will you walk 30 feet now; show it?

MR. MANLEY: And I suppose it should be walked at the speed that he used at that time?

THE COURT: Yes, let him walk as he did on that occasion.

BY THE COURT:

Q Walk as you did on that occasion.

(The witness walks away from the witness stand rapidly).

THE COURT: Well, he did it in about six seconds; did he not?

THE FOREMAN: In about four seconds by my watch, I should say.

MR. SCHLEIDER: Yes, it took him six seconds by my watch.

BY MR. SCHLEIDER:

Q Now, these windows in that store, the windows in those store-doors, how often are they cleaned; do you know?

A I know, yes.

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Q Now, how often were they cleaned a month? A During the whole winter they were cleaned once or twice.

Q Once or twice? A Yes, sir.

Q On this occasion they were pretty dirty, were they not, on the 5th of January? A They were not clean.

Q Now, when Mr. Rich told you to keep an eye on these horses, he told you that because he was afraid --- when Mr. Rich told you to keep an eye on those horses did that cause you to be suspicious when you saw any stranger or any person approach the horse that you had charge of?

MR. MANLEY: It was Mr. Cohen, not Mr. Rich, that cautioned him.

MR. SCHLEIDER: Well, Mr. Cohen, then.

(Question repeated by the stenographer, as amended).

A Didn't come to my mind right away at that time.

BY MR. SCHLEIDER:

Q Didn't come into your mind? A No.

Q Did you watch him after he gave the horse something, what he did after that? A I saw him go away --- from the head of the horse he went up --- he went away.

Q You are sure that some person that came from Monroe Street, or the same person that you saw coming from Monroe Street, towards the horse is the same person that gave something to the horse and walked towards Madison Street?

MR. MANLEY: I was going to object to the question

on the ground of duplicity, because there are several questions in one, and I do object on that ground.

MR. SCHLEIDER: well, I will separate the question.

BY MR. SCHLEIDER:

Q The man that you saw coming from Monroe Street, are you sure that is the same man that gave the horse some substance? A I can't know that.

Q You don't know? A No.

Q How many persons did you see walking by in front of this building of Rubin & Wilner, in front of which this horse was standing, at the time you saw someone going near the horse? A I can't remember. Perhaps two or three people may have passed there.

Q Perhaps two or three people may have passed there?

A Yes, sir.

Q Passed the store? A Yes, sir.

Q You mean on the sidewalk? A Yes, sir.

Q And how many persons, to your best recollection, at that same moment, passed in the street? A When I caught him, no one was walking there.

Q I mean at the moment when you saw someone near the horse, how many people did you see in the street at or near where the horse was standing? A At that time I didn't see any people.

Q Will you swear that there were only two or three people

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in front of 51 or 53 Marketstreet, on the sidewalk or on the street, at the time someone gave the horse something?

THE COURT: He says he did not observe any. Ask him that question again.

(Question repeated by the stenographer).

A I can't swear, because I can't remember.

BY MR. SCHMIDT:

Q There might have been five or six persons there at the time? MR. MANLEY: I object.

THE COURT: He says he can't remember. Sustained.

BY MR. SCHMIDT:

Q All right. Now, 53 Market Street, that is a block where there are several houses, several of which are tenement houses; isn't that so? A In the same building where our store is, above the store, there are living apartments.

Q Are there any shops in that neighborhood, cloak or skirt shops? A In Market Street.

Q Yes. In what part of Market Street, around there?

A It appears to me there are, but I don't know for sure.

Q All right. That's an answer. Will you tell the Court and jury just about how many persons you have spoken to regarding this case, from the time that the arrest was made in this case up to now? A I spoke to Sam Singer. He was working for us at that time, but he doesn't work here now.

Q Now, just answer the question. Sam Singer is who?

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A Yes, sir.

Q And who else did you speak to? A With nobody else.

Q Now, I ask you again whether it is true that the only person that you spoke to of this case, and regarding this case, is Sam Singer, and nobody else? A I spoke to others also, those who came. I spoke to them in court.

Q Ah, all right. Give me the names, please, of those persons. A For instance, if I come into this court here, and policemen or other detectives speak to me.

Q All right, go on. A Cohen and Rich asked me whether I know about something.

Q Yes. weren't you the first one that told Cohen and Rich that you saw the man give something to the horse?

MR. MANLEY: That is, I suggest, within his knowledge. If he knows, of course.

A No.

BY MR. SCHLEIDER:

Q Well, besides Singer and the officers in the case, and Cohen and Rich, who asked you, if you know, anything about the case? Did you speak to any other persons? A No.

Q Did you speak to Mr. Manley about this case? A Yes, sir.

Q Well, why didn't you say so before? A I can't point out exactly in the court to whom I have spoken. I said already here, in the court, when I come in the court, people are

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talking to me about the case.

BY THE COURT:

Q Ask him whether he knows Mr. Manley by name? A No, I didn't know the name.

BY MR. SCHLEIDER:

Q But you spoke to this gentleman (indicating)? He is Mr. Manley. You spoke to him three or four times; didn't you?

A Yes.

Q Now, at the time you --- the first time you were called in regard to this case in the Magistrate's Court, did you remember on that day all that you saw on the 5th of January, 1912, did you remember it better at that time, or do you remember it better to-day than you did at that time? A Well, my memory at that time was a little bit mixed up, but now I am settled down.

Q You are settled up?

MR. MANLEY: He said settled down.

BY MR. SCHLEIDER:

Q Now, did you --- I withdraw this question.

MR. SCHLEIDER: I would like to have these minutes of the Magistrate's Court marked for Identification, your Honor. And I want to know if there is any dispute, Mr. Manley, whether the copy I have is the same copy that you have, and that these are the stenographer's minutes.

MR. MANLEY: Well, I presume they are absolutely

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the same, and I'll take your word for it.

MR. SCHLEIDER: And will you consent to putting them in evidence?

MR. MANTLEY: No, they are incompetent. I must object.

MR. SCHLEIDER: Well, it is conceded on the record that the copy of the minutes that I offer for identification is a correct transcript of the minutes taken in the police court?

MR. MANTLEY: Yes, I will concede that.

(It is marked Defendant's Exhibit 1 for Identification).

MR. SCHLEIDER: I offer now in evidence, if the Court please, the testimony of the defendant, Benjamin Cohen --- of the witness, rather, Benjamin Cohen, on pages 13 to 16.

MR. MANTLEY: I object to that as incompetent.

THE COURT: I sustain the objection. You have a right to question the witness with a view to impeaching him, if you desire.

MR. MANTLEY: And I have no objection, if a proper basis is laid, no objection whatever. That's all I ask for.

MR. SCHLEIDER: Very well.

BY MR. SCHLEIDER:

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Q Were you asked this question at the time you were examined in the Magistrate's Court, and did you make this answer to this question --- reading on page 14 --- "What did you see him do, if anything?" --- the fourth line --- "A. I saw him do nothing". A (No answer)

MR. SCHMIDT: Just ask him that question, Mr. Interpreter.

A I remember very little of what I said at that time.

Q Well, what you said at that time was the truth; wasn't it? A I think so.

Q Well, do you think you spoke the truth when you testified in the Magistrate's Court, or do you know that you spoke the truth when you testified in the Magistrate's Court? A I said the truth.

Q Now, then, try again, and try and recollect if this question wasn't asked you and did you make this answer: "Q. What did you see him do, if anything? A. I saw him do nothing"? A I can't remember. I told you I don't know, I don't remember.

Q Yes. Now, weren't you asked this question, and didn't you make this answer: "Q. Did you say anything to him when you caught him? A. I said, 'Here, what did you give the horse?'"

THE COURT: Well, he says that here. Where is the contradiction?

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MR. SCHLEIDER: Well, but I want to lead up to another question, the next question, or he wouldn't understand that, if I asked him the next question first.

BY MR. SCHLEIDER:

Q. Did you say that?

MR. MANLEY: Well, that's his testimony here. Why repeat it?

MR. SCHLEIDER: All right. I'll ask him this question.

BY MR. SCHLEIDER:

Q. Now, was this question, referring to the previous question, asked you and did you make this answer: "Q. Why did you say that? A. Because I was standing in the doorway, and I thought he gave the horse something."?

MR. MANLEY: I object to that, as not contradicting him at all in his testimony here.

MR. SCHLEIDER: No, I submit it does. In this case he said that he saw a man walk up from Monroe street, and go up to the horse, and give him something, and he showed us how he did it.

MR. MANLEY: No, the testimony is here that he saw a man leave the sidewalk, and go up to the horse, and hold out his hand to the horse, and saw the horse's jaws moving back and forth. That doesn't contradict his testimony here, I submit.

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THE COURT: I think the question that you propound to him now relates to an entirely different matter. Is there anything in the record which shows that he was asked, before the Magistrate, whether he saw a man extend his hand towards the mouth of the horse?

MR. NANNY: No, sir, I don't think so.

THE COURT: Do you claim that he gave absolutely no evidence of what I have referred to?

MR. SCHLEIDER: Yes. And I shall ask your Honor to look at the record of the police court yourself.

THE COURT: I shall give you, then, an opportunity to question him about that after recess.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure and took a recess until five minutes past two o'clock).

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## After Recess.

BENJAMIN COHEN, resumes the stand:

MR. SCHLEIDER: Please repeat the last question,  
Mr. Stenographer.

(The last question is repeated by the stenographer).

MR. MANLEY: I object to it, because it contradicts  
nothing testified to by the witness here.

THE COURT: I shall allow it, I shall allow the  
question.

A I said that I thought that the man had given something  
to the horse.

BY MR. SCHLEIDER:

Q Now, will you explain to the Court and jury now why  
you said in the Magistrate's Court something was given to the  
horse, and to-day you say you saw someone give something to the  
horse?

MR. MANLEY: I object to that, as not the correct  
statement of the testimony of the witness here.

THE COURT: No, there is no such testimony.

MR. SCHLEIDER: As I understand it, he testified  
that he saw someone go over to the horse.

THE COURT: Well, that is different.

MR. SCHLEIDER: All right, I'll put the question that  
way.

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BY MR. SCHNEIDER:

Q Will you please state to the Court and jury here, why, when asked at the Magistrate's Court you said that someone --- or you used the word "he"--- gave the horse something, and to-day you say that you saw the defendant go over to the horse, and give him something?

MR. MANLEY: Objected to as not a statement of the evidence.

THE COURT: Sustained.

BY MR. SCHNEIDER:

Q Didn't you say, to-day, on direct examination, that you saw a person go over to the horse, and extend his hand to the mouth of the horse, and give the horse something? A Yes.

Q And did you say that at the Magistrate's Court, the police court? A I can't remember.

Q Now, reading from page 16. weren't you asked at the time you were examined in the Magistrate's Court, this question, and didn't you make this answer: "Q. Then you did see him give something to the horse? A. I can't say yes or no,"?

THE COURT: And he says so now.

MR. MANLEY: I don't see how that contradicts.

MR. SCHNEIDER: well, I want to know if he said so at that time, and I am entitled to that, I think.

THE COURT: The witness has testified, to-day, that

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he saw a person extend his hand in the region of the mouth of the horse, which belonged to his employer.

MR. SCHLEIDER: But he didn't say so at the Magistrate's Court.

THE COURT: The remark of counsel will be disregarded by the jury.

MR. HANLEY: And the question indicates that he did.

THE COURT: I will allow the question.

(Question repeated by the stenographer).

A It is possible that I may have said so but I can't remember it.

BY MR. SCHLEIDER:

Q Did you say anything at the time you were examined at the Magistrate's Court that you saw a man, or any person, extend his hand towards the horse's mouth?

MR. HANLEY: I object to that unless his attention is called to a question, a particular question and answer. A witness ordinarily testifies in answer to questions put to him, when he is testifying as a witness.

THE COURT: Well, he may ask him the direct question, whether he so testified in the Magistrate's Court. I will allow it.

A It seems to me that I said so.

BY MR. SCHLEIDER:

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Q. Well, do you know whether you said so? A. It seems to me I said so.

Q. Now, were you asked this question --- reading from page 17 --- and did you make this answer: "Q. Then it was after you had seen him go up and give the horse something that you ran out and caught him? A. The reason I caught him was because I had an idea in my mind that this man had done it."

THE COURT: He, substantially, testified to that, to-day.

MR. SCHLIDDER: But what I want to know is, whether it is a conclusion of his, or something that he claims he saw with his own eyes. The testimony of the Magistrate's Court is barren of such facts.

THE COURT: And it is barren here. He doesn't say he saw a person give anything to the horse. And your remarks will have to be disregarded by the jury. You will have to prove what he said in the Magistrate's Court.

MR. SCHLIDDER: Then I withdraw my remarks.

BY MR. SCHLIDDER:

Q. Did you say in the Magistrate's Court that you saw anyone go near the horse, and extend his hand to the horse's mouth?

THE COURT: He has answered that; that he thinks he did.

MR. SCHLIDDER: Then, in contradiction to that, I

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will offer the whole testimony, your Honor.

THE COURT: Yes, at the proper time you may.

MR. SCHLEIDER: And I desire to do so now, so that I will not forget it.

THE COURT: well, do so at the proper time.

MR. MANLEY: Of course, I have no foundation, if he lays the proper foundation. But the witness testified that he doesn't remember whether or not he testified to these things in the police court.

THE COURT: Well, perhaps the District Attorney had better examine the record, before it is offered in evidence so as not to encumber the record unnecessarily. At the proper time you may prove the record, with a view to impeaching this witness.

MR. MANLEY: If there is any ground of impeachment, I don't object to the record going in, but, of course, he would have to call his attention to it specifically, and lay the proper foundation.

MR. SCHLEIDER: But I claim that I have laid the foundation.

THE COURT: You can, at the proper time, prove the record, showing that the witness gave testimony in the Magistrate's Court and that his testimony in that court is silent on the particular subject about which he has now interrogated him, to wit, that in the Magistrate's

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Court, this witness did not testify that he saw a man extend his hand near the mouth of the horse.

MR. SCHMIDT: Well, if your Honor please, will you pardon me a moment? As I understand it, Mr. Manley doesn't dispute that that is the record, or a correct copy of the questions and answers; and, if that be so, I don't see the reason why I can't do it now, as well as later.

THE COURT: That is in the narration of the report is all right, at this time.

MR. SCHMIDT: I am willing that, your Honor. If, of course, if your Honor thinks I can't do it later, I will.

THE COURT: You can wait it later.

MR. SCHMIDT:

Q Now, what you spoke to Mr. Rich, or to the officers in this case, did they ask you what you saw or what you knew about it? A Yes, they did ask.

Q And how many times did they ask you these questions, and how many times did you answer these questions, either to Mr. Rich or to the officers?

THE COURT: What questions?

MR. SCHMIDT: As to whether he saw this.

A Whenever they asked me a question, I asked them, whether it was four or five times, or how many times, I don't

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know.

BY MR. SCHLIFIDNER:

Q Did anyone ever tell you how this horse was poisoned?

A What do you mean? Before or afterwards?

Q At any time? A Before I caught that man, I had heard that horses were poisoned belonging to Cohen and Rich.

Q And is that the reason why you wanted to grab this man and arrest him? A The reason is because I had seen the horse eating something, and not long before the horse was there, and I thought the man had given the horse something to eat.

Q Now, just explain why it is that you state that, at the time you were examined in the Magistrate's Court, you were mixed up, and that boy told you that it was told in your mind. Explain that. A When I was in the police court, I had never been before in any court. I never had been before a judge before that time. And, therefore, my feelings were somewhat mixed up, because I found myself for the first time in my life in a court, before a judge, and before so many people; many people were there.

Q Did the fact that you have talked this case over with several people since you were in the Magistrate's Court enable you to remember it? A Since that time I spoke to the same people as I had spoken to before that.

Q Now, did you have your hands on Cohen at the time when

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you grabbed hold of him, and did you hold on to him tight?

A Yes, I was holdin on to Cohen, yes.

Q He told you that he didn't do anything, that he knew nothing? A He said he doesn't know about anything.

Q He didn't attempt to get out of your grasp and run away; did he? A No.

Q And who besides yourself took him over to Hamilton Place? A Mr. Rubin.

Q Mr. Rubin? Yes, sir.

Q And when Mr. Rubin and you took Cohen over to Hamilton Place did you meet Mr. Rich there or did you meet him on the way there? A I came there, with Mr. Cohen and Mr. Rubin to the Street Cleaning Department.

Q Was Singer along at that time? A No.

Q Did this Pinkerton man, Duhain, walk along at that time, or remain at 42 Market Street.

Q When, for the first time, did you meet Mr. Rich, on that day, in connection with this case? A It was about ten or half past ten, about that time, at that time when they brought Cohen over there.

Q To the stable, you mean? A To the Street Cleaning Department, yes.

Q What I want to know is, when you brought Cohen over to the stable of the Street Cleaning Department, did you meet Mr. Rich, one of the owners of the horse? A Mr. Rich came from

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his office towards us.

Q Yes. And who was it that told Rich that somebody poisoned the horse; who was that? A Mr. Rubin.

Q Was Mr. Rubin there at the time when you claim you saw a man go over to the horse and extend his hand? A He was in his office.

Q By the office, you mean the inside of the store?  
A Yes, sir.

Q He wasn't in the street or upon the sidewalk?  
A No.

Q Do you know of any other person that is now in court or is a witness in this case that you saw, either upon the street or upon the sidewalk, at the time when you saw a man walk over to the horse, and extend his hand? A I can't know that.

Q Did you ever speak to any person from the time you accompanied to the Hamilton stables, up to this minute, who told you that he also saw Cohen extend his hand towards the horse? A I didn't speak to anybody.

THE COURT: That's all.

THE FOREMAN: One moment. I want to ask him a question.

MR. MANLEY: Go ahead. Ask him any question you like, Mr. Foreman.

BY THE FOREMAN:

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Q Then you looked out of the store and you saw somebody handing something to the horse, and you also stated that his back was to you. Can you tell me what size of a man he was, how high he was? A I remember he wasn't very tall. He was of medium size.

Q Was he about your size?

THE COURT: Stand up, please.

A Maybe the same size. Maybe of my size and maybe shorter. I can't know that.

BY THE FOREMAN:

Q When, when your boss, John Groceryman, told you to look out for the horse, did he mean to say to you, or did you understand him to say to you, that you should look out that the horse didn't run away? In that the way you understood it?

A I understood that the horse shouldn't be poisoned, and I should look out for the horse.

Q Now, also, I want to know if, when you thought that you saw anyone giving the horse something, and you also said that he was chewing on it, did you want in front to see what he was doing, to see it? A No.

Q Why not? A Because I got frightened. I thought the horse was poisoned.

THE COURT: Let him conclude the answer, let him finish the answer, Mr. Interpreter.

A (Answer continued) When I saw the horse eating, then I

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ran out, and I ran after the man.

Q But you never seen what the horse was eating at all;  
you don't know anything about it? A No.

MR. MANLEY: I am going to show that by another  
witness.

THE FOREMAN: Yes, I know that, but he was the  
first man on the spot, and I thought he might have known  
something about it, because he was the first man there.

BY THE FOREMAN:

Q Now, did you see the horse before he was taken to  
the stable, afterwards? A Yes.

Q What did you see about the horse? A Sam Singer took  
something out and put it on a paper and brought it to the  
Street Cleaning Department.

BY THE COURT:

Q From whom did he take that something? A He was asked  
where he had taken it from, and he said he took it from the  
mouth of the horse.

THE COURT: No, that evidence will have to be  
stricken from the record, unless the witness saw Singer  
take it from the mouth of the horse.

MR. SCHLIDER: I didn't want to object, your Honor,  
because the juror was asking the question.

BY THE FOREMAN:

Q Did you see him take that out of the horse's mouth?

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A No. I didn't see that.

Q Now, listen. You drive the horse; don't you? A Yes, sir.

Q You drove that very horse? A Yes, sir.

Q When do you feed the horse? A Twelve o'clock.

Q That's the only time you feed him? A Yes.

Q And you fed him at all times? A Yes, once a day.

Q Now, didn't you notice the day before, that that horse didn't feel right? A No.

Q You didn't? A No.

Q Well, what makes you think so? Did he eat the food that you give him, the day before, when you fed him at dinner time? A What I gave him, he ate it up.

Q The day before, he ate what you gave him? A Yes, January 4th.

Q Now, listen. Can you tell me about the age of that horse? Do you understand horse flesh? A No, I'm no expert on horses.

Q Well, was it a well built, fine looking horse, or merely an ordinary working horse? A He was a good runner.

Q A good runner? A Yes, he was going nicely; a good horse.

RE DIRECT EXAMINATION BY MR. MANLEY:

Q I think you said you had used that same horse for

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quite a while? A Yes, sir.

Q How long had you been using him? A Four or five or six weeks.

Q Had the horse been well at that time, or had he been ailing during that time? A He was well.

Q To whom did you give the horse when you took it around from Market Street and left it in the stable; what persons received it in there? A To the workingmen there I gave it.

MR. MANIFY: That is all.

RE CROSS EXAMINATION BY MR. SCHLEIDER:

Q Just one moment. How many horses did you use between September 5th, 1911 and January 5th, 1912? A One horse.

Q One horse? A Yes, sir.

Q And do you mean the same horse that you claim was poisoned? A Only one horse.

Q The same horse? A Yes, sir.

Q What time did you leave it at the stable, the night before, January 4th? A I didn't leave the horse in the stable at the same time every day. Sometimes it is six and sometimes it is seven and sometimes it's eight, I can't remember.

Q You can't speak English, can you, Dr. Cohen? A I understand a little. I can't talk. I've not long been in this country.

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Q Who was the first one that you recollect that made the remark that the horse was poisoned?

MR. MANLEY: Now, I object. We have been all over this. This is not proper re-cross examination.

THE COURT: Yes, I think he testified to that.

BY MR. SCHNEIDER:

Q Did you ever tell Mr. Duhain, the gentleman who was here, yesterday, the first witness in this case, that the horse was poisoned? Yes or no. A Where? Outside?

Q Well, any place? A I didn't tell the man anything outside, because I had never seen him.

Q Well, who was the first person that you told that the horse was poisoned? A I said it to Mr. Rubin.

Q How did you know that he was poisoned, when you didn't see what was given him and you didn't know what he had to eat?

MR. MANLEY: Now, I object to that. This witness doesn't know that he was poisoned, and hasn't said so. I can't prove by him that he was poisoned. I have another witness as to that.

MR. SCHNEIDER: Well, he made the remark that he was poisoned.

MR. MANLEY: Well, it is because counsel put it in his mouth by his question, if your Honor please.

THE COURT: I will allow the question. He says

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answer.

A Because I thought that, two weeks before, I had been told about it, and, when I saw it, I got frightened.

MR. SCHLEIDER: That's all.

MR. MANLEY: That's all.

BY THE COURT:

Q Did you see Mr. Duhain, the Pinkerton detective, in court here, yesterday? A Yes, sir.

Q When you had hold of the defendant on Market Street, did you see this gentleman, Mr. Duhain? A No, sir.

THE COURT: Do you desire to ask any questions, gentlemen of the jury? Does any juror desire to question the witness? The next witness.

BY MR. MANLEY:

Q I understand that you testified that, when you came into the court in this building, you saw Mr. Duhain; is that it? A Yes, the same Friday, I saw him here in this building.

MR. MANLEY: That's all.

MR. SCHLEIDER: That's all.

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S A M U E L F I N G E R, of 47 Forsythe Street, a witness

called on behalf of the People, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q Where do you work now, Mr. Singer? A I am working in 435 Grand Street, for Polichina Bros.

Q What kind of work do you do there? A I am a clerk inside, making packages and so on.

Q On the 5th of January last, did you work for the firm of Rubin & Wilner, of 52 Market Street? A Yes, sir, I did.

Q And what kind of work did you do there? A I was making packages.

Q Now, were you in the store at 52 Market Street in the forenoon of that day? A Yes, sir.

Q Did anything attract your attention; did you hear anything from the sidewalk? A Not before.

Q Well, I'm coming down to the point. At the time during the forenoon did anything attract your attention? A I was standing in the store, making up packages, and I heard that somebody started to scream.

Q Well, where did the person start from? From what direction? A From outside, from the street.

Q Did you do anything when you heard the scream? A I went out.

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Q Well, when you went out, what did you see? A I didn't see anybody, but I saw only a man was standing near the horse, at the mouth of the horse, and was holding him by the tongue.

Q Well, what kind of a looking man was that? A This I can't tell you. I don't remember.

Q Well, have you seen him since; have you seen him down here in court, since you have been down here? A Not here in court, no.

Q Who else did you see there? A Then I looked around and saw people standing there at the corner.

Q Well, what happened?

MR. SCHLEIDER: I object to the answer.

MR. HANLEY: Well, no answer has been given by the interpreter yet. You understand the language, don't you?

THE COURT: Now, gentlemen, at this point, I want to say to you two understand the language, that, under the law you must disregard what the witness says in the language which you understand, and accept only the testimony that is translated into English, and only when it is accepted by the Court. You will appreciate that, I suppose?

MR. HANLEY: Yes, sir.

MR. SCHLEIDER: I object, counsel for the defendant.

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objects to something that the witness said, but, of course, that has not been translated yet into English, and the jurors who understand the language of the witness will disregard it. We try our cases only in English, and, therefore, the Court cannot rule until the interpreter makes the translation. /And especially as I don't understand the language.

MR. MANLEY:  
THE COURT: Yes, and the District Attorney does not understand the language.

MR. SCHMIDT: Then may I caution the interpreter not to translate anything except what he saw and heard.

THE COURT: Yes, I so instruct the interpreter.

BY MR. MANLEY:

Q (Question repeated) A Mr. Dubain came up to me and said something to me.

Q Now, where were you when Mr. Dubain said something to you? A I was right at the mouth of the horse.

Q Now, who is Mr. Dubain? Describe him, describe what he looks like. A A stout man, with a yellow, blond moustache.

Q Did you see him here, yesterday? A Yes, sir.

Q Well, now when would you say he weighed? A Oh, I don't know. I never weighed him.

Q Well, is he the man who testified here, yesterday, on the stand, as the first witness, to come right down to it?

A Yes.

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Q Well, now, after Mr. Duham said something to you, what did you do, if anything? A What he told me to do, I did it.

Q Well, what did you do? Because I can't bring out what he told you? A I took a stick and took something out of the mouth of the horse.

Q Well, what does that look like, what you took out?

A It was blue and white, and white spots. I didn't look exactly at it.

Q What part of the horse's mouth was that something that you took out? A Here, right behind the front teeth (indicating).

THE FOREMAN: And under the tongue, I think he said, too.

BY MR. FOREMAN:

Q Was it under the tongue or on top of the tongue?

A This I can't remember.

Q Well, now much did you proceed in scraping out, how big a bunch did it make? A Two small pieces, and I put them into a paper, two or three small pieces and I put them into a paper.

Q Where did you get the paper that you put it into?

A I believe I took it out of my pocket.

Q Now, you say that somebody at the time had hold of the head of the horse? A No, not the head, but the tongue.

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of the horse, so as to prevent the horse from chewing.

Q And did that person hold the tongue of the horse while you were scraping out this material? A Yes, sir.

Q Now, when you first went out of the store --- question withdrawn. At the time when you went out of the store, did you see Mr. Rubin the proprietor there near the rig?

A No.

Q Did you see Benjamin Cohen there at that time?

A No, sir.

Q Just as soon as you had done up that little package of the stuff that you took out of the horse's mouth, did you go anywhere? A Yes, sir.

Q Where did you go? A In Hamilton Street.

Q Whereabouts on Hamilton Street? A To the Street Cleaning Department, I believe the number is No. 44.

Q You mean the stable of the Street Cleaning Department? A Yes, sir.

Q Now, when you went there, whom did you see there, right after you got there? A Benjamin Cohen, I saw, and I believe Jacob Cohen was there, and other people were there, and the policeman was there.

Q And do you recall anybody else who was there? A I can't remember.

Q Do you remember that Mr. Rubin was there? A I believe not; I didn't see him.



Q Did you see him afterwards there? A Yes, sir.

Q Now, did you give that piece of paper, containing what you had taken from the horse's mouth, to anybody?

A Yes, sir.

Q To whom did you give it? A To the policeman.

Q Do you recall his name?

MR. MANLEY: Bring in Officer Geiselman.

THE WITNESS: Now, I know the name, Geiselman; now I know the name; I didn't know it at that time.

BY MR. MANLEY:

Q Well, do I understand that you now know that the name is Geiselman; is that it? A Yes, Geiselman is the name.

Q And did you turn over that package in just the same condition as when you got the stuff out of the horse's mouth?

A Yes, sir.

Q Now, do you see here in court the policeman to whom you gave the package? A Yes, here he is, standing up (indicating the officer).

MR. MANLEY: The witness indicates Officer Geiselman.

BY MR. MANLEY:

Q Now, when you left the place where the horse was, and went down to Hamilton Street, was Mr. Duhaime still near the horse? A This I don't know.

Q Well, where was Duhaime when you left to go to Hamilton

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Street? A I believe he was on the sidewalk.

Q Well, how far from the horse? A I didn't measure it, a few steps, about six or seven steps away. I don't know exactly.

Q Now, when you around to where this defendant Jacob Cohen was, did you hear anybody charge him with doing anything? A No, I didn't hear.

Q Where did you go from the stable? A In the station house.

Q And did you see the package that you had given to Officer Geiselman at the station house? A Yes, sir.

Q Did you write anything upon the piece of paper, upon the package? A Yes, sir; in Yiddish.

Q Whereabouts? Where was the court? In that building?  
A In the police court, in the Magistrate's Court.

Q Well, whereabouts is it, in what building? A In this building.

Q Now, I show you this piece of paper (indicating), and ask you to look at it. What was it you wrote on the paper?  
A My name.

Q Anything else besides your name? A No, I didn't write anything else.

Q I show you that piece of paper and ask you to look at it and see if you find on it anything that you wrote?

A Yes, on the outside, I see something written in Yiddish.

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Q Well, is that the piece of paper that you had, and turned over to Geiselman? A Yes, sir.

Q Now, I don't suppose that this piece of white paper which is pasted across the edges was there when you gave it to Geiselman; was it? A No, sir, it wasn't.

Q And you say you wrote your name in Yiddish; is that so? A No, not in Yiddish.

Q Well, what did you write in it? A This was written on the paper already, before, some time past. I don't remember exactly.

Q Well, did you write anything on the paper, or was the writing on the paper already, before you put the stuff in? A Yes. I took the paper out of my pocket, something was written on the paper, in Yiddish.

Q Well, who had written that on the piece of paper?

A I myself.

Q Well, what was it that you had written on the piece of paper in Yiddish? A I had to remember something, a package, and I wrote it down on a piece of paper and put it in my pocket.

Q Well, did you do up the stuff in something that you got out of your pocket; did you do up the stuff that came from the mouth of the horse in something that you pulled from your pocket? A That I took out from the mouth of the horse I wrapped it in a piece of paper which I took out of my pocket.

Q Now, when you got to the police court, did you write

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anything else on the paper, or did you just leave on there the writing that you had put on the piece of paper, before you wrapped up the stuff? A I left it as it was, and I only wrote my name on it.

Q Well, then, you wrote your name on the paper, after you got to the police court, in addition to what you had previously written on it; is that right? A Yes, I added my name.

Q Well, as I understand it, you point out there that that was what you had written on that paper(indicating)? A Yes, I wrote that before.

Q Well, it is partly pasted over, and I don't want to break the seal at the present time, but translate what you can see? A "One package big ferina, cocoa, eighths."

THE FOREMAN: That's an order for groceries.

MR. HANLEY: I ask that that be marked People's Exhibit 2 for Identification.

(It is so marked, People's Exhibit 2 for Identification).

BY MR. HANLEY:

Q Did you afterwards come to the police court in this building on that day? Question withdrawn. You have testified that you did. What time was it when you got there? A About eleven or twelve o'clock, about that time.

Q Now, when you got down to the stable of the Street

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Q And on Friday, the 5th of January last, you had in your employ Benjamin Cohen? A I did.

Q He was the driver of a rig for you; is that right?

A Yes, sir.

Q Now, you engaged that horse by hire from the firm of Cohen, Rich & Cohen; did you not? A Yes, sir.

Q And you had had that horse for some time by hire?

A Yes, sir.

Q And was there also a porter employed by you at that time by the name of Samuel Singer? A Yes, sir.

Q Now, the day of the forenoon of Friday, the 5th day of January, were you in your place of business at 55 Market Street? A I was.

Q Now, did anything attract your attention on the sidewalk, that forenoon? A As I recall it, I heard my name shouted out loud by my driver and I ran out ----

Q Your driver, Cohen? A Yes, sir. And I ran out and I seen him holding on to a man.

Q Whoseabouts was Cohen holding onto a man when you out on the street? A He was about four or five feet away from the wagon.

Q On the street or on the sidewalk? A On the street, in front of the wagon.

Q Towards what street? A Towards Madison Street.

Q About four or five feet away from the wagon? A Yes,



sir.

Q Now, who spoke first when you got out there, and saw him with aman? Was it Cohen, your driver, Benjamin Cohen, or was it yourself? A I spoke first.

Q And was the defendant Cohen there? A Yes, sir.

Q And was he the man that your driver had? A Yes, sir. And I said to my driver, "What's the trouble?"

Q What language did you use? A In Hebrew, in Jewish.

Q And what did your driver say? A He said, "I think this man gave something to the horse".

Q And did the defendant, Jacob Cohen, make any reply?

A He did not.

Q Didn't he say anything at that time? A No, nothing at all, not a word.

Q Was anything else said by your driver, Benjamin Cohen? A He said, "He is eating something." And I said to this defendant here, "Did you give him something?" And he kept quiet, didn't say a word.

Q Did you say anything else to Jacob Cohen, the defendant?

A I did not.

Q Was anything else said at that time in his presence, the defendant's presence? A No. But I said to my driver, "We'll take him around to Rich," he being around the corner and we went around there with the defendant.

Q And where did you go when you started around? A We

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started right around to Hamilton Street, and, in front of the Street Cleaning Department, there were two officers, and they said, "What's the trouble?" And I said, "My driver claims that this man gave something to my horse."

Q Do you recognize any of the officers here, to-day, as one of those officers? A No, sir.

Q Now, what else did you say to the officers at that time? A And they remained there.

Q Well, did the defendant Jacob Cohen say anything when you said that to the policemen? A No, sir.

Q Didn't he say a solitary word? A No, sir, not a word.

Q Didn't he say what he was doing there at the time? A No, sir.

Q Now, was the defendant Jacob Cohen kept there, in front of the stable, for any length of time? A Yes, he was. And I ran down to the stable of Cohen & Rich and the stable was closed, and I knocked on the door, and Mr. Cohen answered me, and I said ---

MR. SCHLEIDER: Objected to.

THE COURT: Sustained.

BY MR. MANLEY:

Q When you say Mr. Cohen, is that a partner of Cohen Rich & Cohen? A Yes, the younger Mr. Cohen.

Q What is his first name? A I can't tell you.

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Q Was it Meyer Cohen; do you remember? A It might be. I know there is a son and the father, and this was the son.

Q And where did you go next? A I waited until Mr. Rich came out, and then I said ---

Q No, you can't state that. Did you see Mr. Rich down there at his own stable? A Yes, sir.

Q That is, 14 Hamilton Street? A Yes, sir.

Q And did you have a talk with Mr. Rich? A Yes, I did.

MR. SCHLEIDER: Objected to.

THE COURT: Allowed.

MR. SCHLEIDER: Exception.

BY MR. MANLEY:

Q After you had had the talk with Mr. Rich, did you see him anywhere? A Yes.

Q Where? A Towards the Street Cleaning Department stable. And I walked as far as there, and then I went to my own place of business.

Q You went back to your place of business at 53 Market Street? A Yes, sir.

Q And did you see anyone take the horse away from the place where it had been left standing in front of your store? A I don't recollect, but I know the horse was taken from the store back to the stable.

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Q Do you recollect whether, when you got back to your own store, the horse and wagon was there? A It wasn't there.

Q It wasn't there? A No, sir.

Q Did you hear any further conversation on your way back, when you got to the place where the Street Cleaning Department stable is? Just answer that yes or no. A No, I didn't.

CROSS EXAMINATION BY MR. SCHLEIDER:

Q Mr. Rubin, when did you first see this defendant, Jacob Cohen? A When my driver was holding him.

Q At the time you came out, how many persons were out there, or about your place, on the sidewalk or the street?

A Hardly any.

Q Well, couldn't you say better than that? A Well, the only two I knew was the defendant and my driver, and I ran right up to them.

Q And you saw no one else? A No one else.

Q And what took place? A I asked my driver what was the trouble.

Q And your driver told you? A Yes.

Q And at that time your driver held Cohen, did he?

A Yes.

Q Cohen didn't run away? A No.

Q Standing there peaceably? A Yes, sir.

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Q Who was the next person who came over to this scene?

A I don't remember any person coming over.

Q Well, what do you remember happened next to that; after you saw Jacob Cohen and your driver near the horse; what happened after that? A Well, I asked my driver ---

Q I know that. And what happened after that? A We took him around to Mr. Rich's stable.

Q And you walked along; did you? A Yes.

Q Then, if I understand it correctly, you and Benjamin Cohen took Jacob Cohen, the defendant, to Mr. Rich's stable?

A We went to the Street Cleaning Department first. We didn't go as far as Rich's place, because the policemen were standing in front of the Street Cleaning Department stable.

Q And how far was Mr. Rich's stable from that stable?

A About a hundred feet, I should think.

Q And the defendant went along all right? A Yes, sir.

Q And did your driver hold him or did he walk quietly?

A No, he held him.

Q And then you gave him over to the policemen?

A Yes, sir.

Q And where did the policemen go with Jacob Cohen? A I don't know. They stood in front of the Department stable.

Q And for how long? A Until I got back with Mr. Rich.

Q This stable of the Street Cleaning Department is on Market Street; isn't it? A No, on Hamilton Street.

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Q Well, is that south of where your store is or not?

A It's south.

Q When, for the first time, did you meet Mr. Duhain?

A In court, yesterday.

Q That's the first time you ever saw him? A Yes, sir.

MR. SCHLEIDER: That's all.

RE DIRECT EXAMINATION BY MR. MANLEY:

Q Were you called as a witness in the police court at all? A No, sir.

Q When they had the preliminary examination? A No, sir.

Q And, as I understand it, your attention has not been called to the case, except on the day you saw the happenings of which you have told us? A Yes.

RE CROSS EXAMINATION BY MR. SCHLEIDER:

Q Just one moment. You were not a witness in the police court? A No, sir.

Q Did you ask Cohen anything about this matter in English or in Jewish? A Jewish.

THE COURT: Which Cohen?

MR. SCHLEIDER: The driver.

THE WITNESS: No, I meant this defendant. I spoke to him in English and I said what I said before.

BY MR. SCHLEIDER:

Q And you don't know whether he understood you or not;

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do you? A No, sir.

Q And he didn't answer you? A No, sir.

F R A N K H. G E I S E L M A N, of the Fifth Precinct, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q You are a member of the police force, attached to what precinct? A Fifth.

Q Were you in that precinct on the 5th of January last?

A Yes, sir.

Q Now, were you in the forenoon of that day, Friday, in the vicinity of the Street Cleaning Department stables on Hamilton Street? A Yes, sir.

Q Did you, during the forenoon of that day, see the defendant Jacob Cohen? A Yes, sir.

Q Where was the defendant when you saw him first?

A At 44 Hamilton Street, the Street Cleaning Department barn.

Q Who had him in charge when you first saw him? A Benjamin Cohen.

Q Anyone else with him at that time? A Well, there may have been someone else, but I didn't know who they were.

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Q Well, was Mr. Rubin there, the last witness? A Well, he probably was there, but I don't remember him.

Q Now, what was said in the presence of the defendant when you saw the defendant there at that place? A Benjamin Cohen had a hold of him, and he said he tried to poison his horse, in broken English. The defendant said he didn't, and so I took him to the station house.

Q Well, was anything said at that time? A Not that I remember.

Q Did anybody else come up besides those you have spoken of? A Later on, they did. Mr. Rich came up.

Q Well, who came up later on? A Mr. Rich did. On the street while we were going to the station house.

Q Anybody else? A No, sir.

Q Did you see Sam Singer? A Yes; Sam Singer went along and Benjamin Cohen.

Q And where was Sam Singer when you saw him first?

A He came into the stable with a substance in a manilla paper bag.

Q I show you this paper and ask you if that is the bag (indicating)? A Yes, that's the color of it and it looks like the bag.

Q Well, you received something from him? A Yes, sir.

Q And did you do anything with that which you received then? A I took it from him, and delivered it at the station

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house, to Detective Lawler. The lieutenant told me ----

Q No. Wait a minute. I haven't asked you what the lieutenant told you. You delivered it to Officer Lawler?

A Yes, sir.

Q And did you deliver it in the same condition as you found it in, when you received it from Sam Singer? A Yes, sir.

Q And was that piece of paper pasted on there at that time (indicating)? I don't suppose it was; was it? A No, sir.

Q Well, whatever you received from Sam Singer, you gave to Officer Lawler? A Yes, sir.

Q Now, did you hear any statements made by Benjamin Cohen, in the presence of Jacob Cohen, in the station house?

A (No answer)

Q Now if you are not clear upon it, don't give it?

A I don't recollect.

Q Now, is that the extent of what you know about it?

A That's all I know of it.

Q And then you turned over the defendant to the lieutenant at the desk? A I did.

MR. BARNES: That's all.

CRIMINAL EXAMINATION BY MR. SCHLEIDER:

Q Officer, were you the first officer who arrested the defendant? A I was.

Q Where were you standing at the time? A I was coming

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down Hamilton Street --- or Market Street -- at the corner of Monroe.

Q You were at Market Street, corner of Monroe? A Yes, sir.

Q And how far is that from 53 Market Street, the store of Rubin & Wilner? A About 50 feet, I should judge.

Q And how long had you been stand at that place before that? A I just happened to come along.

Q And what was the first you saw of this whole affair? You saw a couple of people coming in your direction? A No, sir, I didn't. My attention was first drawn to this case by Mr. Duhain, the witness.

Q And then did you see people coming along? A No, I didn't. I went directly over to where he said that they had the man who gave poison to the horse.

Q And where did you go? A To 44 Hamilton Street, the Street Cleaning Department stable.

Q And whom did you find there? A Benjamin Cohen.

Q That's the driver? A Yes, sir.

Q And who else? A Jacob Cohen, the defendant.

Q And who else? A That's all I remember.

Q Did you see Mr. Rich there? A He wasn't there at that time.

Q When did Mr. Rich, the owner of the horse, come there?

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A I think he joined us when we were going to the station house with the defendant.

Q And did he walk along to the station house? A Yes, sir.

Q Was it the Madison Street station house the defendant was taken to? A No, sir, the Oak Street station house.

Q Do you remember Mr. Rich talking to the defendant on the way? A I think he did.

Q I don't suppose you were talking about? They weren't talking English? A Well, now, he talked English.

Q Who did? A The defendant did.

Q This man talked English? A Yes, sir.

Q You heard him talk English? A Yes, sir.

Q What did you hear him say in English? A Now, Mr. Rich grabbed a hold of him, and he said, "Has he got a right to grab hold of me?"

Q And the defendant asked you if he had a right to grab ahold of him? A Yes, sir.

Q In English? A Yes, sir.

Q And is that all that Mr. Rich did? Didn't he punch him in your presence? A No, sir.

Q Don't you remember seeing his handkerchief there with blood on it? A No, sir.

Q Didn't you tell Mr. Rich that he had no right to hit him or strike him? A No, sir.

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Q And didn't another officer come over to you, and ask you why you permitted Rich to strike this man? A No, sir. He grabbed ahold of him like that (illustrating).

Q Now, just illustrate what you saw Rich, the owner of the horse, do to Cohen? A He did that to him (illustrating), and I said, "Don't do that. There is no use of your doing that. I've got ahold of him."

Q And he didn't hurt him in any way? A No, sir.

Q You are certain of that? A Yes, sir.

Q And you are certain that, when Rich grabbed ahold of him, the defendant asked you, in English, "Has he got a right to take hold of me?"

MR. HALEY: Objected to as repetition.

A Yes, he said so.

RE DIRECT EXAMINATION BY MR. HALEY:

Q Had you been standing where you were, or walking on the street? A I just came along.

Q From which direction? A From the north.

Q From what street? A Madison Street.

Q And you were walking down Market Street at the time?

A Yes, sir.

Q And where was Mr. Dublin at the time? A At Market and Monroe, on the corner.

Q And was the horse and wagon still there? A Yes, sir.

Q And he spoke to you about it? A Yes, sir.

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Q And how far from the horse and wagon did he speak to you? A I should judge about 15 feet.

Q And did you then immediately go around to the Street Cleaning Department stable? A I did; when he told me about the case.

MR. MANLEY: That is all.

EDWARD J. LAWLER, of the Detective Bureau, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q You are a member of the police force of this city, attached to the Detective Bureau? A Yes, sir.

Q In what precinct, Officer Lawler, were you, on the 5th of January last? A The 5th Precinct.

Q On what street is that? A Oak Street.

Q Now, did you, at some time in the forenoon of Friday, January 5th, see the defendant Jacob Cohen? A Yes, sir.

Q Where was he when you first saw him? A At the Oak Street station house.

Q Who brought him in there? A Officer Gaiselman.

Q And whom did you see with them first? A Hyman Rich, Benjamin Cohen and Sam Singer.

Q Did you ask any questions of anyone present there, in

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the presence of the defendant Jacob Cohen? A Yes, sir.

Q In fact, was the case turned over to you by Geiselman?

A I was directed by Lieutenant Collins to take charge of the case.

Q Did you question the witness, Benjamin Cohen, in the presence of Jacob Cohen, the defendant, about the case?

A Yes, sir.

Q In what language? A The English language.

Q Have you heard the defendant talk English since he has been in your custody? A Yes, sir.

Q And did you ask him questions? A Yes, sir.

Q And did he answer you? A Yes, sir.

Q Now, what was said by you or Benjamin Cohen, in the presence of the defendant, about the charge of poisoning the horse? A I asked Benjamin Cohen what he saw the defendant do, and he said, "I was standing in the store, looking out of the window, and I saw this man here ---" pointing to the defendant --- "give my horse something to eat, holding out his hand that way (illustrating)."

MR. SCHLEIDT: One moment. I object to that as being hearsay.

MR. MANLEY: Why, it is something that was said in the presence of the defendant.

THE COURT: I think the circumstances are entirely different here, unless he participated in the conversa-

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tion. Strike out the evidence and the jury will disregard it.

BY MR. HANLEY:

Q Did the defendant make any reply to what Benjamin Cohen said in the station house? A He said he didn't do it.

Q There was a "No"? A Yes, sir.

THE COURT: Well, to be sure, it was a question.

THE COURT: Yes, it was a question.

THE COURT: Now, my previous question he answered, "No," and also the answer.

(The question and the answer are repeated by the defendant).

A (After a moment) And I said then, "How do you know it was him?" and he said, "I saw him, and I ran right out and caught him."

BY MR. HANLEY:

Q Was anything else said in the presence of the defendant by Benjamin Cohen? A I asked this Benjamin Cohen, the complainant, now he knew he attempted to poison his horse, and he said, "Samuel Singer scraped some of this stuff out of the mouth of the horse."

MR. SCHLEIFER: I object to that and move to strike it out.

THE COURT: Motion granted. Strike it out. And the

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jury will disregard it.

BY MR. MANLEY:

Q And what did the defendant say in relation to the statement of Benjamin Cohen? A He said he didn't know anything about it, and didn't do it. And then I asked him where he lived and he said at 92 Attorney Street. And I asked him what he was doing that section, and he said he was looking for work, and I asked him what he worked at and he said he was a skirt operator.

Q Did you have any further talk with him about the charge, about the charge against him? A No, no further conversation about the charge.

Q Now, did you receive a package from Officer Seisselman in the station house? A Yes, sir.

Q And that was in colored paper, was it? A Manila; sort of.

Q Yes. And where did you go from the station house?

A I went to the First District Court, with the prisoner.

Q In this building, known as the Towns Police Court?

A Yes, sir.

Q And whom did you see there in the Towns Police Court, when you got there with your prisoner? A Well, I met a number of people there, among them, Mr. Duhaime.

Q Now, did you see anything in Mr. Duhaime's possession in the police court? A Yes; Mr. Duhaime had a blue paper.

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Q A blue paper? A Yes, sir.

Q Did you get that blue paper? A Yes, sir.

Q With its contents? A Yes, sir.

Q Did you see Mr. Duhaime make any writing upon the blue paper? A I believe I notified him to write his name on it, when he turned that blue paper over to me.

Q Well, when you finally got it, did it have his name on it? A Yes, sir.

Q Now, did you take possession of the two packages, one that you got from Mr. Duhaime, and the other from Officer Geigelman? A Yes, sir.

Q And did you deliver them to anyone? A Yes, sir.

Q To whom? A To Dr. Ekroth.

Q And he is connected with what Department of the city government? A The Health Department.

Q Where? A At the foot of East 16th Street.

Q And when was it that you delivered those two pieces of paper with their contents to Dr. Ekroth? A On January 6th, the following day.

Q I show you People's Exhibits 1 and 2 for Identification, and ask you to look at them and tell me whether those are the ones that you delivered to Dr. Ekroth? A Yes, they are both the same packages.

Q Did you receive them back from Dr. Ekroth? A Yes, sir.

Q What date? A The same day, about an hour afterwards.

Q on the 6th? A Yes, sir.

Q Within an hour after you had given them to him?

A Yes, sir.

Q Did you see him take any samples from the contents of the two papers? A No, sir.

Q Or were you in a different room? A No; I remained out in the office, while he took the packages inside.

Q Well, did you get the packages back from him?

A Yes, sir.

Q And when you received the packages back from him --- I show you People's Exhibit 1 and ask you if it came back to you in that condition, with a piece of paper across, and the words, "C.V. Ekroth, January 6th, 1912," written on a piece of paper? A I saw Dr. Ekroth seal them both, and hand them back to me.

Q Then you saw him when he placed that piece of paper on the exhibit (indicating)? A Yes, sir.

Q And also saw him write, "C.V. Ekroth, January 6th, 1912"? A Yes, sir, I saw him write that.

Q Well, I suppose, then, when you gave Dr. Ekroth Exhibit 1 for identification, that that white piece of paper was not on it at the time? A No, it wasn't on it then.

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Q Did you see Dr. Ekroth write the same thing upon People's Exhibit 2 for Identification? A Yes, sir.

Q I suppose, then, when you gave People's Exhibit 2 for Identification to Dr. Ekroth that that exhibit for identification did not have on it those strips of paper (indicating)? A No, sir.

Q Now, you delivered People's Exhibits 1 and 2 for Identification to me, here, yesterday; did you not? Yes, sir.

Q And are they in the same condition now as when you received them from Dr. Ekroth? A Yes, sir, in the same condition.

Q The seals unbroken? A Yes, sir.

MR. DANDY: That is all.

MR. SCHLESER: No questions.

THE FOREMAN: I would like to ask a question.

BY THE FOREMAN:

Q You say you spoke in English to Benjamin Cohen?

A Yes, sir.

Q And you asked him what? A I asked him --- I told him, "You heard the charge that this man makes against you. What have you to say?" And he said, "I don't know anything about it. I didn't do it."

Q No. I want to know about this driver Cohen. A Well, that's Benjamin Cohen.

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Q That's what I asked you. Did he speak English?

A He spoke English good enough for me to understand him. But  
Mr. Hyman Rich helped out at the time.

MR. MANLEY: I have spoken English to him, too. He  
speaks a little English and understands some English

BY THE FOREMAN:

Q And you also spoke English to the defendant? A Yes,  
sir.

Q And he understood what you asked him? A He answered  
me properly.

Q He did? A Yes, sir.

JOHN P. H. O. E. V. E. K. O. T. H., of the Board of Health,  
Foot of East 16th Street, Manhattan, a witness called  
on behalf of the People, being duly sworn, testified  
as follows:

EXAMINATION BY MR. MANLEY:

Q Mr. Kroth, what is your business? A Chemist.

Q Are you a graduate of chemistry from some college or  
university? A Polytechnic Institute, of Brooklyn.

Q And are you employed in any branch of the City Govern-  
ment at the present time? A Board of Health, City of New  
York.

Q And what is your position with the Board of Health?

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A Chemist.

Q. And, as chemist, what are your duties? A The usual duties of a chemist.

Q Well, I know, but tell the jury. I have studied chemistry, and so have you, and so we know exactly what it is, but let the jury know. A The examination of foods, poisons and supplies, of every description.

Q Now, how much of a course did you have in chemistry?

MR. SCHLESINGER: Well, we will not dispute the Doctor's qualifications to make an analysis in this case or in any other case.

MR. DABNEY: Very well.

BY MR. DABNEY:

Q Now, did you on the 5th day of January last, receive two pieces of paper, with certain contents, from officer Lawler, from the Police Department? A I did.

Q I show you People's Exhibits 1 and 2 for Identification, and I ask you to look at them and tell whether those are the ones.

Are those the exteriors of those which you received in which the contents were enveloped? A They are.

Q And are those your seals with your name and the date? (Indicating) A Yes, sir.

Q Now, when you received those two exhibits for identification, what did they contain as delivered to you by Officer

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Lawler? A They both contained a substance of paste-like consistency, oily, and light yellow in color and contained particles of straw.

Q Yes. A I guess that's about as near as I can describe it.

Q Now, can you describe it, apart from your analysis, before we get to that? What it consists of, any of the elements, besides the chopped straw that you speak of?

A Well, I couldn't say. I didn't examine it very closely at the time of receiving it, from a physical point of view.

Q Do you recall the color? A It was a light yellow, whitish.

Q Could you determine whether any of the ingredients were real or anything of that sort? A I did not so determine.

Q Now, did you make an analysis, a chemical analysis, of the contents of either of the packages, or of both of the packages, as delivered to you by the officer? A I made an analysis of the contents of both of the packages.

Q Did you retain all of the contents of each package, or did you not? A No, I did not retain more than what I used for the examination, for the analysis.

Q Now, what did you do with the exterior, that is, the wrapping of the packages, when you had taken your sample?

A I wrapped them up again, substantially as I had received them, and placed my seals upon them.

Q And did you do that within a short time after you had received them from the officer? A I examined them immediately upon receiving them from the officer, and, at the close of the examination, I immediately sealed them up and returned them to the officer.

Q Now, are they in the same condition exactly as far as you can see, as when you delivered them back to the officer?

A They are.

Q Those are your seals upon each one of the packages?

A Yes, sir.

Q Now, Doctor, you say you made a chemical examination of the samples of the contents of the two packages, and what did you discover as the result of the chemical analysis?

A I found the contents of both packages to contain arsenic.

Q Well, what is arsenic? A It is a chemical element.

Q Well, how else can you describe it? A It is of a metallic nature itself.

Q Well, is it a healthy metallic substance or otherwise?

A Well, I don't believe that it is healthy; no, sir.

Q Well, what is it known as? A As a poisonous metal.

Q Now, how much arsenic did you determine was in the samples which you took? A I didn't determine the amount.

Q Well, what can you say as to the amount, in comparison with the entire substance that you took for examination?

A There was a large proportion of arsenic.

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Q A large proportion of the entire sample was arsenic?

A Yes, sir.

Q Did you trouble yourself to find out the other constituents of the mass, besides the discovery that there was arsenic there? A I made no further examination of it.

CROSS EXAMINATION BY MR. SCHLEIDER:

Q Doctor, how long do you state this arsenic poison --- how long do you think it would take to effect him? A Well, I don't know.

Q Well, more or less? A I don't know.

Q Couldn't tell? A No.

MR. SCHLEIDER: That is all.

MR. MANTLEY: That is all.

THE COURT: You would have to have a veterinary surgeon on that subject, I think.

MR. MANTLEY: I have a veterinary surgeon, your Honor. I now offer in evidence People's Exhibits 1 and 2.

(They are received without objection and marked People's Exhibits 1 and 2 in evidence).

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J A M E S S. K E M P, of 536 Water Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DANIEL:

Q Now, you are a veterinary; are you? A Yes, sir.

Q What is your exact title? Veterinary surgeon, is it?

A Will you kindly come a little closer to me, because I am deaf.

Q (Question repeated) A Yes. I am a veterinary surgeon.

Q And you have been a veterinary surgeon how long?

A 30 years.

Q And your place of business or office, rather, is where?

A 536 Water Street Street, New York City.

Q And are you a graduate of any veterinary school?

A Of the American Veterinary College, in the City of New York, in the Class of 1882.

Q And have you practised as such veterinary surgeon ever since that time? A Yes, sir.

Q And you are duly licensed to practise according to the laws of this state? A I practise in the State of New York.

Q I say, you are duly licensed to practise according to the laws of this state? A Yes, sir; registered in the State of New York.

Q Are you acquainted with the firm of Cohen, Rich & Cohen, on 22 Hamilton Street? A Yes, sir.

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Q And have you had occasion to treat horses for Cohen, of 14 Hamilton Street? A Tes, sir.

Q And have you had occasion to treat horses of theirs, from time to time? A Yes, sir, I treat their horses.

Q And that has extended over how long a period, that you have treated thier horses? A I have been attending their horses there for several years.

Q Now, on Friday, the fifth day of January, last, were you called to the stable at 14 Hamilton Street? A On the fifth of January last, at a time between eleven and twelve o'clock, I called at that stable. I wasn't specially sent for, but I stopped there at that time, as I am in the habit of calling there every day, and I happened, that day, to call in between eleven and twelve o'clock.

Q Now, when you got there at twelve o'clock, was your attention drawn to a horse. A Yes. As I went in from the street, there was a bay horse standing on the floor.

Q Could you give me an idea of what time that was, Doctor Kemp? A That was between eleven and twelve o'clock. It was nearer twelve, as near as I can remember.

Q Now, I can't ask you what was said to you, but was your attention drawn by anybody to that horse in that stable?

A Yes, immediately.

Q Do you recall who did so? A My attention was specifically called to the horse, as I went in the door, by one of the

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proprietors, who came out of the office.

Q And do you recall which one of the proprietors it was? A It was young Mr. Cohen, of Cohen, Rich & Cohen.

Q Well, is his first name Meyer Cohen, or what is it? Can you tell me what it is? A I have known him for years but I don't know his first name. I know he is a member of Cohen, Rich & Cohen, because he signs the checks.

Q Well, is he the junior member? A Is it the last Cohen in the firm? The one that comes at the end of the firm name? A Yes, sir the younger Cohen.

Q Now, you made an examination of the horse; did you? A I did.

Q And what did you find at that time, if anything? A Well, I found nothing, at the moment. I was guided by what was told to me at that time.

Q Did you receive a history of what had happened from anyone? Just yes or no to that. A I was told something, yes.

Q Well, now, did you tell the --- did you give, at that time, any medicine to the horse? A Yes.

Q What was the nature of the medicine? A I gave the antidote for arsenical poisoning.

Q Now, did you see the horse, on the following day? A Yes, sir.

Q And for how many days after that Friday did you see

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that horse? A Well, I saw him every day after that, for five days.

Q And upon the fifth day, the horse died; is that it?

A Four or five days.

Q Now, when you saw him on the following day, Saturday, what symptoms did you discover? A Symptoms of arsenical poisoning.

Q Well, what are the symptoms? Will you tell the

A Well, there are several forms of arsenical poisoning, depending upon the quantity of poison taken, the resisting power of the animal, and depending upon whether the stomach is full or empty when the poison goes in. All those factors will influence the action of the poison, and the adult would inhibit or check its action to some extent, probably. Therefore, a variable length of time must necessarily elapse between the taking of the poison and the manifestation of any symptoms; and I didn't observe any symptoms at first, but, on the following day, the symptoms began to appear.

Q Now, state those symptoms. A Well, on the following day, there was loss of appetite. That is a very prominent symptom. The animal refused to eat. And another symptom is that it refused to drink. There is a dryness at the mouth. The mucous membrane of the mouth is dry and sticky, and a redness, a congestion of the mucous membrane in the eyes and nose. And the temperature continues to rise, not rapidly, but

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slowly and continuously. Those were the symptoms noted, the first day. Not the acute pain, because it wasn't an acute case of poisoning.

Q Well, how many stages are there of poisoning.

A Well, it is arbitrarily divided into the acute, sub-acute and chronic forms of poisoning, but one merges into the other.

Q Now, on the following day, what would you say the symptoms indicated the condition of the horse to be, on Saturday, the next day. A On the 6th?

Q Yes. A The horse presented the symptoms that I have told you of at the time.

Q Well, would you characterize that condition as what?

A Sub-acute.

Q What do you mean by subacute? A Being less than the acute. In the acute, there is violent, agonizing pain within an hour, and the animal will roll and toss itself all around, due to the irritant, corrosive effect of the poison on the stomach, and, if taken in sufficient quantities, the poison will burn him so inside, that he will roll around, and quickly die.

Now, if the dose of poison is not sufficiently large to develop the acute form, the poison is absorbed into the circulation, and it takes some time to react again on the stomach, and the symptoms are less violent. In fact, a horse will not show any pain, but will simply stand still, and refuse to eat

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or drink, and, after a few days, he will die; his nervous system becoming more and more depressed, until paralysis supervenes, and they fall down and die. That is the sub-acute form.

Q Now, Doctor, did you notice any different symptoms upon the other days, and before the day of death, any different from those that you saw on the second day, Saturday, the 6th? A Yes. Now, there is a peculiarity about that form ----

Q Will you describe it up to the time of death.

A Sometimes, on the second day, they seem to rally, those cases.

Q But I am asking you to describe this particular horse.

A Well, this horse did. On the second day, he rallied, and seemed to improve. He made attempts to eat, although he wouldn't eat, and I thought the symptoms were a little en-

couraging, but, on the third day, then the case retrogressed again, and went on to a fatal termination.

Q Did the horse, so far as you know, eat or drink at all from the time that you saw him on Friday up to the time of his death? A I saw the horse on the day before his death, not on the day of his death.

Q Well, then, this time that you saw him last, so far as you know, did he eat or drink at all, from the first time you saw him? A No; I was sure that he would die, that

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A 22



night, and I stopped at the stable, thenext morning, and asked if he was then dead, and they said no, and then I had to go to court, and he died.

Q. Now, from the symptom that you saw the horse exhibit, can you express any opinion as to the amount of arsenic that had been administered to the horse? A No, sir, I couldn't.

Q. What, in your opinion, was the cause of the death of that horse? A The horse died from arsenical poisoning.

CROSS EXAMINATION BY MR. SCHREIDER:

Q. Doctor, when you first saw thehorse, did you notice any symptoms ofpoisoning at all? A Not immediately, no; not at the time when I first saw him.

Q. If someone hadn't told you something about the horse, you wouldn't have known that horse was sick at all, when you first looked at him? A No, sir, not at the moment.

Q. Now, there was nothing about thehorseto indicate that there was any poison in it, at the time when you first saw it? A No, sir, there wasn't.

Q. You say you gave thehorse an antidote for arsenic poison; is that correct? A Yes, sir.

Q. Now, will you be good enough to tell me who toldyou thehorse was poisoned with arsenic? A Who told me?

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Q. Yes. A Well, since the poisoning of horses with arsenic has become a profitable industry, I guess it.

MR. SCHLEIDER: I object to that, if your Honor please, and move to strike that out.

THE COURT: Yes, strike that out.

BY MR. SCHLEIDER:

Q. Did anybody tell you that the horse had been poisoned with arsenic? A I guessed at it, from what was told me.

MR. SCHLEIDER: I object to that and move to strike it out.

THE COURT: Strike it out. Motion granted.

BY MR. SCHLEIDER:

Q. But what I want to know is, when you first looked at horse, that morning, and your attention was first called to it, did anybody tell you whether it was poisoned with arsenic or not? A No, not with arsenic, but was poisoned. But I concluded that it was arsenic.

Q. And how long would it take for arsenic to operate, the symptoms of it? A That would depend upon the size of the dose given primarily.

Q. Well, just illustrate, with a mild dose, how long would it take? A Well, if he had a dose of two ounces, he would show it within an hour or two; or one ounce, it might be 24 hours before he would manifest symptoms. A horse is very tolerant of arsenic. It takes a lot to kill him.

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Q He wouldn't show the symptoms within a couple of moments? A No, of course not; no, he wouldn't.

RE DIRECT EXAMINATION BY MR. MANLEY:

Q Doctor, if arsenic were put in a substance like oil meal, how much arsenic could it carry? A Well, it would depend upon how much oil meal it had.

Q Yes. Supposing that you had a little ball of oil meal, say about the size of three or four of my fingers?

A Half the size of your hand, say?

Q Yes. A Well, that would easily carry two ounces, because arsenic is a heavy substance.

Q Well, for instance; I take it that oil meal is an absorbent; is it not? A Yes; it has great capacity for water.

Q Now, suppose that you had a mass of oil meal, and put in arsenic, how much would the arsenic compose of the substance? A Well, five or six times, at least, when they were combined.

Q Now, I want you to be very careful, Doctor, and answer the question that I am about to put you, just yes or no.

A Yes.

Q Did you have, when you were examined that horse, a reason to suspect that, if it were poison, the poison was arsenic? A I did have reasons, yes.

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Q For how long a time had you been --- question withdrawn. Had you, for months just previous to the 6th of January, had charge of examination of horses belonging to that firm? A Yes, sir.

MR. SCHMIDT: May I see the package of oil meal, that you produced in evidence, Mr. Hanley?

MR. HANLEY: Certainly. Do you want to break the seal?

MR. SCHMIDT: No.

THE COURT: EXAMINATION BY MR. SCHMIDT:

Q How much oil meal do you think is in this package, Package No. 17? Look at this package. Assuming that there is oil meal there, how much arsenic do you think that would hold? A I don't know how heavy that paper is. It might be all paper, for all that I know.

THE COURT: Why not break the seal.

MR. SCHMIDT: Let us break it.

MR. HANLEY: Yes, I will break it.

THE COURT: As I understand, the chemist took some of the substance from the packages for analysis?

MR. HANLEY: Yes, sir, enough to make the analysis.

THE WITNESS: What is the question?  
BY MR. SCHMIDT:

Q How much of arsenic, Doctor, could there be in this quantity of oil meal? How much could it hold? A Well,

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now, that is only making a rough guess.

Q Well, give us a rough guess. A I should say it would hold about half a dram, about 30 grains, I should say.

Q And that quantity, 30 grains of arsenic, mixed with the quantity of oil meal that is there, (indicating), how long would it take to affect the horse, how many days?

A It wouldn't affect the horse at all. It wouldn't even make him sick.

Q It wouldn't affect him at all? A No, sir.

MR. SCHLEIDER: That's all.

THE COURT: The stenographer will note that the counsel questioned the Doctor as to the contents of the package, People's Exhibit 1.

MR. HANLEY: Now, counsel, do you wish to ask any question on People's Exhibit 2?

MR. SCHLEIDER: No. Do you?

MR. HANLEY: No, I don't care to ask any question.

THE FOREMAN: I would like to ask one question.

BY THE FOREMAN:

Q Doctor, when did you attend last to this particular horse? A On the day before he died. That was the last time I saw him.

Q And was he sick then? A Yes, he was almost dead.

Q No, I don't mean that. I mean before this poisoning.

A Oh, I don't remember to have ever seen the horse, not to

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my knowledge.

Q. And you don't remember of his ever having been sick?

A. No, I don't remember of his ever having been sick.

Q. And you can't remember any of the horses that you attended there; can you? A. No, sir; unless there was something unusual connected with them.

Q. They had no particular names there? A. No, sir.

(The Court then admonished the jury in accordance with Section 425 of the Code of Criminal Procedure, and adjourned the further trial of the case until to-morrow morning, Friday, March 15th, 1912, at 10:30 o'clock).

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## TRIAL RESUMED.

New York, March 15th, 1912.

H Y M A N R I C H, of 59 Market Street, a witness called on behalf of the People, being duly sworn, testified as follows:

## DIRECT EXAMINATION BY MR. MANLEY:

Q Mr. Rich, are you a member of the firm of Cohen, Rich & Cohen? A Yes, sir.

Q And you are the Mr. Rich of that firm; are you? A Yes, sir.

Q And what is your business? A Livery stable.

Q And your place of business, your livery stable, is where? A No and 16 Hamilton Street.

Q And is that near Catherine? A Yes, sir.

Q How long is it in the livery business at that place, or how long has your firm been in the livery business there?

A In this place we are in the fifth year, since they put the building up.

(The Court then adjourned the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess for ten minutes).

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## After Recess.

H Y M A N R I C H, his direct examination being continued,  
testified as follows:

DIRECT EXAMINATION CONTINUED BY MR. MANLEY:

Q On Friday, the 5th day of January last, your firm was  
the owner of about how many horses? A Close on to 150.

Q And those horses were rented out by you to various  
people, for hire? A Yes, sir.

Q Did you have a horse upon that day which was being  
used by the firm of Rubin & Wilner at 101 Market Street?

A Yes, sir.

Q And your firm rented out to you that horse, for  
some time previous to that date? A Yes, sir.

Q And was the driver of that horse, the witness Benjamin  
Cohen, who testified before; was he? A Yes, sir.

Q Now, upon the morning of Monday, the 6th day of  
January, did you see that horse in the stable at  
101 Hamilton Street? A Yes, sir.

Q Mr. Rich, about what time in the morning was it that  
that horse was taken out of the stable? A Between half past  
six and seven o'clock.

Q And by the driver, Benjamin Cohen? A Yes, sir.

Q And what was the color of the horse? A A bay gelding.

Q A bay gelding? A Yes, sir.

Q How long had you owned that horse, at least, your

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SALE \$150.50

Q. Upon that date what was the market value of the horse in question? A. That horse cost me \$350, but after it was acclimated, it was worth more, of course.

—and therefore would not be in the 5th of  
November. A YES, Sir, would be a pity.

On about March 1961, A. Miller took a photograph of a man  
or he from the police photo.

and that was after, at least, I had  
of the notes by the defendant, W. H. R.,  
A. T. S.

Q And did you see your father at that time? A Yes, I did.

Q. And the home address was 1000 1/2 West 10th Street?

Q Do you recall what day of the week that would be, the 10th of January? A On a Wednesday, I think it was.

Q Yes, the following Wednesday, the 10th? A Yes, sir.

Q And did you see that same horse, in company with Dr. Kemp, after the first day, every day? A Yes, sir, every day.

Q And you saw Dr. Kemp looking at that horse? A Yes, sir.

Q And the horse that Dr. Kemp looked at was the horse that had been rented by Rubin & Wilner? A Yes, sir.

Q 53 Market Street? A Yes, sir.

MR. SCHLEIDER: We don't dispute that the horse died as the result of arsenical poisoning.

MR. MANLEY: You make that concession, do you?

MR. SCHLEIDER: Yes.

MR. MANLEY: And do you concede that arsenic was given to the horse by somebody on the street, at 53 Market Street?

MR. SCHLEIDER: No, I can't concede that.

BY MR. MANLEY:

Q Now, about what time in the day was your attention called to the poisoning of this horse, or the probable poisoning of it? A About eleven o'clock in the morning.

Q Where were you at the time? A In the stable.

Q In your own stable? A Yes, sir.

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Q After your attention was called to it, did you go anywhere? A I ran out, and I seen an officer leading this fellow.

Q Leading whom? A Leading the gentleman right there (indicating).

Q Do you mean the defendant Jacob Cohen? A Yes, sir. And I ran out and grabbed him, and said, "Now, we have got ---"

Q Wait a moment. Where did you see the officer have Jacob Cohen? A Well, it was a couple of doors away from our stable, going down towards Catherine Street.

Q Were they standing on the street or walking at the time? A Walking.

Q And they were walking towards Catherine Street? A Yes, sir.

Q And that would be down towards your stable, then? A Yes, sir.

Q Did you say anything to the defendant? Just yes or no to that. A I didn't say nothing to him, but I simply grabbed him, from excitement, and I said, "Now we have got the one that is going to run us," and the officer said, "Let him go. I'll be responsible for him."

Q In what language did you speak? A In English.

Q Did the defendant say anything in reply to that? A He may have said something, but I don't recollect that he did.

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Q And then you went to the station house? A Yes, sir.

Q And then did you afterwards go to the police court?

A Yes, sir.

Q And who did you see there at the police court, what witnesses? A Well, there was the officer, Detective Lawler, and Mr. Duhamin, the Pinkerton detective.

Q Yes. A And the driver, the helper.

Q Now, did that horse eat anything or drink anything from the time that he was brought into the barn, at about eleven o'clock in the morning of Friday, until his death on the following Wednesday? A Nothing.

Q Nothing at all? A No, sir. He did not head down to the ground and refused. He refused to eat and drink, but he refused to eat or drink.

Q And, as I understand you, there was nothing in the matter with him as to his appetite or desire for food, before that day? A Nothing.

Q Did you ever, Mr. Pick, before that day, see it is defendant? A Yes.

Q What? A Yes.

Q Speak up loud so that we can hear you. — Many days before that Friday, the 5th, had you seen this defendant? A On January 2nd.

Q That would be Wednesday? A I think so.

Q Well, two days, then, before the 5th, is that it?

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A Yes, sir.

Q And where did you see him upon that date? A At 14 Ludlow Street.

Q Now, what is 14 Ludlow Street? A A saloon, a liquor saloon.

Q It is between what streets? A Between Canal and Hester.

Q Between Canal and Hester? A Yes, sir.

Q Now, Mr. Rich, I want you to be careful, and just confine your answers to what is called for in my questions, so as to prevent objections by defendant's counsel. A Yes, sir.

Q Did you go to 14 Ludlow Street, that saloon, by appointment? A Yes, sir.

Q Was the appointment made the day before that you went there, the 3rd of January?

MR. SCHLESINGER: I object to that as immaterial, irrelevant, incompetent, as to why he went to the place, so far as the defendant is concerned.

THE COURT: Overruled.

MR. SCHLESINGER: Exception.

A Yes.

BY MR. MARLEY:

Q About what time in the day was the appointment made?

A Noontime.

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MR. SCHLEIDER: Objected to.

THE COURT: Overruled.

MR. SCHLEIDER: Exception.

BY MR. HANLEY:

Q. At noontime? A. Yes, sir.

Q. That is, twelve o'clock? A. Between twelve and two, something like that.

Q. In what way was the appointment made? By telephone, or word of mouth, or what? A. Telephone.

THE COURT: I think you cannot go into that, Mr.

Hanley. I shall strike out the testimony.

BY MR. HANLEY:

Q. Had you any idea of the date of the 10 to 14 Ludlow Street?

MR. SCHLEIDER: I object to that as irrelevant, immaterial and incompetent.

MR. HANLEY: I hold that is highly material.

I am merely giving the order of events. I am not calling for contraband.

THE COURT: I shall allow that to stand.

MR. SCHLEIDER: Exception.

Yes.

BY MR. HANLEY:

Q. What was the date? A. Between 10 and 14 in the morning.

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BY THE COURT:

Q. What time? A. Between five and six in the evening.

BY MR. MANLEY:

Q. What time did you get to 14 Ludlow Street? A. At that time.

Q. What time? A. Between five and six in the evening.

Q. And can you tell me at what time you got there exactly? A. It was soon after five o'clock. I started from my stable at five minutes past five, and reached there maybe ten minutes after.

Q. Did you see the defendant at the time he entered the saloon? A. Not the very next night I got in, but I did see him there.

Q. With you were there when he had been got in there? A. No, sir, I couldn't swear to that.

Q. How long had you been there before you saw the defendant? A. About ten minutes.

Q. And where was the defendant when you first saw him?

A. At the bar, close to the bar, over a glass of beer.

Q. You mean he had a glass of beer in front of him?

A. Yes, sir.

Q. Was he standing alone or was anyone with him? A. He was all alone.

Q. Did you know where you were to see, when you called into that saloon? A. No, sir.

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Q. How did you happen to know the defendant in the saloon? A. I had suspicious mostly ---

MR. SCHILLER: I object to that.

THE COURT: No. Strike that out and the jury will disregard it.

MR. HANLEY:

Q. Did you look around when you got into the saloon?

A. Yes, sir.

Q. How many persons would you say were in there at the time? A. About seven or eight.

Q. Just answer this yes or no. Did you say anything to the bartender or the man behind the bar? A. Yes.

MR. SCHILLER: I object to it, unless it was in the presence of the defendant.

MR. HANLEY: That's all, your honor.

THE COURT: All right, yes or no.

MR. SCHILLER: Exception.

MR. HANLEY:

Q. You saw him at the time? Can you tell me the name of the man, the proprietor, was behind the bar?

Q. Was the proprietor, the proprietor, was behind the bar?

A. Yes, sir.

Q. Did the telephone ring while you were there? A. In

the presence of the defendant.

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Q How long had you been there before the telephone rang?

A About five or ten minutes.

Q And whereabouts was the telephone? In what part of the saloon? A At the end of the bar, at the end of the back bar.

Q At the end of the back bar? A Yes, sir.

Q How far from where the defendant was? A Between three and five feet.

Q Did you see who answered the telephone first when it rang? A The owner of the saloon, the bartender.

Q Well, who was that? A Meyer Solomon.

Q Did you see him take down the receiver? A He took down the receiver and then he called me over.

Q And then you went to the telephone, did you? A Yes, sir.

Q Now, just answer this yes or no. Did you have a talk with anyone over the telephone? A Yes, sir.

MR. SCHLESINGER: I object to it as immaterial, irrelevant and incompetent.

THE COURT: I will allow it to be answered yes or no, that question.

MR. SCHLESINGER: Exception.

BY MR. HANLEY:

Q And that talk was in the presence of the defendant?

A Yes, I suppose so.

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Q Well, was he there? A Yes, he was.

Q In what language was the talk? A English.

Q Well, did you finally hang up the receiver? A Yes, after the talk was finished.

Q After the talk was over, did you go anywhere? A I went into the toilet, as directed.

MR. SCHLEIDER: I object to that, "as directed".

THE COURT: Objection sustained. Strike that out, and the jury will disregard it.

BY MR. MANLEY:

Q You went into the toilet? A Yes, sir.

Q Where was that? A In the backroom.

Q And how far was that from where the defendant was, in the barrroom? A About 15 or 20 feet.

Q Now, when you got to the toilet, did you direct your attention to any particular part of the toilet? A Yes, sir.

Q What part? A Where I was directed to.

MR. SCHLEIDER: I object to that and move to strike it out.

THE COURT: Yes, motion granted. Strike that out. And the jury are instructed to disregard it.

BY MR. MANLEY:

Q Now, what part of the toilet did you direct your attention to? A To the back part of the toilet.

Q And what was in the back part? A There was a window

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leading to the yard.

Q. How long did you stay in the toilet? A. Between five and seven minutes surely.

Q. And then where did you go? A. I went out again.

Q. Where? A. Back to the barroom.

Q. Was the defendant still there? A. Yes, sir.

Q. When you got to the barroom, got back again, and while you were there at any time did the telephone ring? A. About ten minutes after.

MR. SCHNEIDER: I object to that as immaterial, irrelevant, incompetent and not binding on the defendant.

MR. MANLEY: I hold that it is part of the res gestae of the entire transaction. I am not calling for conversations, but only for the order of events.

MR. SCHNEIDER: If they can show that the defendant had anything to do with the phone, it might be material.

THE COURT: Now about that, Mr. Manley?

MR. MANLEY: I expect the contingency to arise where it will be most important on the cross examination, for instance. I don't know.

MR. SCHNEIDER: Well, if I cross examine him on that point, I will open the door for it.

MR. MANLEY: I don't mean cross examination of this witness.

THE COURT: Well, this question is preliminary, but

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it might lead to evidence that is objectionable.

MR. MANLEY: I am not going to ask for objectionable testimony, but only for the order of events. I am not calling for any conversations to bind him.

THE COURT: Thus far there is no connection shown, as far as this defendant is concerned.

MR. SCHLEIDER: And I don't see why he should bring out all about those 'phones, your Honor. If he claims that he can connect it with the defendant, I will withdraw my objection.

MR. MANLEY: I can only connect him by his presence, at the hour that a man goes to a place.

MR. SCHLEIDER: Well, it is a line of testimony that I think objectionable, if your Honor please, and, in order to protect the defendant's rights, I press the objection.

MR. MANLEY: Let me ask you this question, withdrawing temporarily the one pending.

BY MR. MANLEY:

Q Did you ever see the defendant before you saw him in that saloon on the 3rd of January, in your life? A No, sir, I don't think I did.

THE COURT: Are you trying to prove a conversation that the witness had in the presence of the defendant?

MR. MANLEY: No, sir, it isn't a conversation, be-

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cause it was a telephone conversation, and there was no obligation for the defendant to join in the conversation. So I am not asking for it, but I am asking if the telephone again rang, in the presence of the defendant, while he was there. I think it is a legitimate circumstance in the chain of circumstantial evidence. The defendant and Mr. Rich are there. Why is the defendant there? It seems to me that there is some explanation incumbent upon the defendant.

THE COURT: I will allow the question, and give you the benefit of an answer.

MR. SCHLEIDER: I have an exception.

BY MR. MANLEY:

Q (Question repeated) A Yes, sir.

Q How long was it after you had gone back from the toilet, before it rang again? A A short while, around ten minutes.

Q And you have said that the defendant was there at the time? A Yes, sir.

Q After that, what did you do? A I went down again.

Q Was the defendant there in the saloon when you did?

A Yes, sir.

CROSS EXAMINATION BY MR. SCHLEIDER:

Q Mr. Rich, how long have you been in business? A Over

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17 years.

Q In the City of New York, I suppose? A Yes, sir.

Q Now, you are certain that you saw Jacob Cohen, this defendant, at 14 Ludlow Street, on Wednesday, January 3rd, 1912, around five o'clock? A After five.

Q Well, I mean around that time? A Yes, sir.

Q Well, five ten or five thirty; it don't make any difference as to the exact time; you are sure about that?

A Yes, sir.

Q And you say you saw him in Solomon's saloon; is that correct? A Yes, sir.

Q Do you know Solomon? A Yes, sir.

Q How long have you known him? A Quite a number of years.

Q How many years? Five or twenty? A Well, we will say between ten ----

Q Well, tell me exactly. You are under oath, you know.

A Well, between ten and twelve, any how.

Q He is a good friend of yours? A Not exactly.

Q Well, you are not enemies? A No, sir.

Q Is he in court? A No, sir.

Q Did you ask him to come to court? A No, sir.

MR. MANLEY: I subpoena witnesses, counselor.

BY MR. SCHLEIDER:

Q Have you told Mr. Manley, the District Attorney, that

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you were in 14 Ludlow Street? A Yes, sir, I did.

Q You told him that how long ago? A I can't exactly remember, but I did tell him.

Q Well, you told him soon after this man Jacob Cohen was arrested; did you not? A I think I did.

Q Well, give me the nearest date that you can remember that you spoke to Mr. Manley, the gentleman prosecuting this case?

MR. MANLEY: I will concede that I have had the information for at least two weeks, anyhow.

MR. SCHLEIDER: And I protest against these interruptions. I don't want any concessions.

THE COURT: Well, proceed.

BY MR. SCHLEIDER:

Q Give me the nearest date, after the arrest of the defendant that you spoke to Mr. Manley about seeing the defendant in that saloon? A Well, a week or ten days.

Q A week or ten days after he was arrested? A No; a week or two weeks before to-day.

Q And you told him about being in that place? A Yes, sir.

Q And gave him Solomon's address? A Yes, sir.

Q And you told him, practically, the same thing as you are stating to-day? A Yes, as I am stating to-day.

Q Now, you have been in court two or three days of this

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week that this case has been on for trial? A Yes, sir.

Q And you haven't seen Solomon in court today or yesterday, or outside of the court there? A No, sir.

Q Have you spoken to Solomon with regard to this case since Cohen was arrested? A No, sir.

Q Cohen was arrested on an affidavit or on a complaint made by you at the Magistrate's Court? A Yes, sir.

Q Is that correct? A Yes, sir.

Q You signed that affidavit? A Yes, sir.

Q You knew that Cohen's case would come up? A Beg pardon?

Q You knew that the case would come up for trial, this week? A I was subpoenaed by Mr. Manley.

Q You never told Mr. Manley, nor did you yourself ever ask Solomon to come to court, did you? A No.

Q Do you know the name of this bartender, who, you say, was there at the time Cohen was there? A That was the owner himself.

Q Oh, you mean that Solomon was tending bar himself?  
A Yes, sir.

Q How large a saloon is this at 14 Ludlow street?

A It is a single store.

Q Well, is it about 20 feet wide? A No, sir.

Q How? A Single store.

Q Well, are there two stores to the building? A No,

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only one.

Q Well, the store is about 15 feet wide, anyway; isn't it? A About that, I think.

Q And about 50 feet long? A I guess so.

Q This neighborhood, 14 Ludlow street, is quite a congested sort of neighborhood; is it not; lots of workmen come in and drink there and go out? A During the day it's busy around there. It's awful crowded in the day but in the evening it's quiet.

Q During the daytime before five, it is crowded, I suppose? A Yes, sir.

Q You have been in that neighborhood quite often during the 15 or 20 years that you have had your stable there?

A Very often.

Q How many times have you been in Solomon's saloon? Hundreds of times? A Oh, no.

Q Dozens of times? A Oh, more than that, I'll say. But I'm not a man who visits saloons, every day. I've got enough to attend to my business.

Q Isn't it a fact that there are never, after two o'clock, and between the hours of two and six o'clock, never less than fifty persons in and about the bar and saloon of Solomon?

A No, sir.

Q There is quite a big lunch on the counter there, is there not? A No, sir; it is as you find in most saloons, just a herring and a piece of bread.

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Q One moment. Haven't you looked at the counter?

A Well, of course, I did.

Q And you will swear that there was no lunchcounter there? A Beg pardon?

Q That there is no lunch on the counter there? A There is, yes; a piece of bread and a piece of herring and a piece of radish; things like that.

Q And will you swear that, on this day, at that time, there were not more than seven or eight people there? A Yes; there might have been that many, but not more. There were some by the bar, and some were playing a game of pinochle.

Q And how many were playing pinochle; four or five?

A Yes.

Q And those weren't playing around the bar, but were playing around a table? A Yes, sir.

Q And then there were seven or eight around the bar?

A No, sir, there was no one at the bar but I.

Q And Cohen, of course? A And this man.

Q Do you mean Cohen, by this man? A Yes; and the bartender and one or two more at the bar.

Q Well, you and Cohen and Solomon were there? A Yes, sir.

Q And one or two more? A Yes, sir.

Q That would make five persons, besides those playing pinochle? A Yes.

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Q Are any of those persons that you claim were there, when you say you saw Cohen, here in court? A No, sir.

Q Did you know any of the men there? A There was two drivers which I know, standing over the bar, driving for the wholesale produce business, standing at the bar.

Q What are the names of those drivers? A Well, I don't know the names of those.

Q You never took the trouble to bring them? A No, sir.

Q To court, I mean? A No, sir.

Q Do you know for whom these drivers work? A Well, one of them I do --- I think I do --- know.

A And for whom? A He works for Mr. Dallek.

Q Where is his place of business? A Also on Ludlow Street.

Q What number? Near the saloon? A The number I don't know.

Q Now, these persons that were playing around the table you knew? A Some of them.

Q And give me the names of some of those five? A I don't know, sir.

Q You can't tell? A No, sir.

Q Did they go there often to that saloon? A I don't know.

Q Now, this man that you saw drinking the glass of beer

in front of the bar at the time when you claim you were called to the 'phone, how high was he; I mean how many feet high was he? A Who do you mean, sir?

Q I mean this man that you saw drinking a glass in Solomon's saloon, at five o'clock on January 3rd; how tall was he? A big man? A Well, there were two or three there. I don't know which one you mean.

Q Well, the man that you claim was Cohen. Give me a description of that man. A The gentleman is right in front of me now.

Q I understand you claim so. But when you looked at the man at that time you didn't know it was Cohen? A No, sir.

Q Didn't you know his name before? A No, sir.

Q Well, how did he appear to you as to size? A The man was pretty close to me, and watching every move I made.

Q And was he five or six feet tall? As tall as you? A No, sir.

Q Well, how tall was he? A Smaller.

Q How much smaller? A A great deal smaller than I am.

Q I don't want to know how tall the defendant is? A Well, I didn't measure him.

Q I don't ask you to measure him to an inch. Give us your best idea of his height? A Well, say, four and a half feet high.

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Q Four and a half feet high? A That's a rough guess.

Q And what kind of a hat did he wear? A He wore a cap.

Q And did he wear one of those woolen shirts, the same kind of shirt that workmen wear? A A collar and tie.

Q Or a shirt like you and I, with a collar and tie?

A A collar and tie.

Q And a cap? A Yes, sir.

Q This man whom you saw drinking this glass of beer, and that you say is Cohen, didn't talk a word to you? A No, sir.

Q And you didn't talk a word to him? A No, sir.

Q Now, you have seen hundreds of people since January 3rd, 1912, haven't you; lots of them? A Yes, sir.

Q This man that drank the glass of beer, with this cap on, he looked like a driver or workman, like a driver or helper on a wagon? A He looked like a workman, yes.

Q Yes, he looked like a workman? A Yes, sir.

Q Did he wear an overcoat? A Yes, sir.

Q You don't remember the color; do you? A I do, I guess.

Q What was the color? A Kind of brownish.

Q Kind of brownish? A Well, brownish or gray.

Q Well, which was it? A Between brown and gray, a shaded color.

Q Is this the coat (indicating the defendant's overcoat)?

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A No, sir; an old coat.

Q An old coat? A Yes, sir.

Q Well, was it brown or gray? Which, now? You said brown or gray? Might it have been black? A No,

Q Either brown or gray? A Yes, sir.

Q Now, of course, the color of the coat didn't have both brown or gray on it; it wasn't mixed goods; it was either brown or gray? A Well, it was a mixture of goods, it wasn't one color, like if it was black.

Q Well, I am not trying to mix you up? A Well, you are trying, I think.

Q Well, did the coat have both brown and gray on it?

A It was more than gray, more gray, I guess.

Q It had more gray than brown in it? A I think so. It's a thing that's hard to remember, you know.

Q Now, did you ever go to that place, the week before, or two weeks before, to Solomon's place? A Yes.

Q Or two months before or a month before? Now, please don't look at anything? A It was on the 7th of December.

MR. SCHLEIDER: I object to this man looking at a memorandum, your Honor.

THE WITNESS: I can't remember without it, your Honor.

BY THE COURT:

Q Can't you remember without looking at this memorandum?

A No, sir; no, your Honor; it's hard to remember.

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BY MR. SCHLEIDER:

Q You have been there a few times? A On the 7th day of December.

Q Now, of course, this conversation, this Cohen conversation, and the fact that you had seen a man drinking at the bar on January 3rd, that was in your mind on January 5th, when the defendant was introduced to you or shown to you? A Yes.

Q And he was there in the custody of two policemen?

A Of one.

Q Of one officer? A Yes, sir.

Q And Benjamin Cohen, your driver, was with him, or had him by the hand? A No, sir; only the officer held him.

Q And the first thing, when you were shown this man, the first thing you did, you grabbed him? A Yes, sir.

Q And you punched him; didn't you? A No, sir.

Q You didn't? A No, sir. I got an old father and mother home, and I'll swear by them.

Q Now, just answer my question.

THE COURT: He said he did not.

BY MR. SCHLEIDER:

Q And didn't you smash him in the mouth, and didn't the defendant take a handkerchief out, and wipe off the blood from his mouth? A No, sir. I'll take my dying oath on it. I've got an old mother and father at home, and I'll swear by it, I'll take my dying oath on it. I grabbed him, and the

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officer ordered me to let go of him, and I did.

Q Didn't you think that the officer could take care of Cohen?

MR. MANLEY: I object to that.

THE COURT: Excluded. What difference does it make?

BY MR. SCHLEIDER:

Q Now you walked along with Cohen to the station house, didn't you? A I did, sir.

Q You spoke to him in English? A English.

Q What? A In English.

Q In English? A Yes, sir.

Q Did you speak in Jewish at all? A Well, I speak pretty good Jewish. I am a Hebrew.

Q No. Didn't you speak any Jewish to him? You spoke a little Jewish and a little English; didn't you? A I don't remember if I did or not.

Q Well, try and remember. It is important to know.

A Well, I think I spoke in English to him.

Q Well, would you swear that you didn't speak to him in Jewish? A I wouldn't swear to it, no.

Q And how far is it from your place to Oak Street station, where this man was taken, or from where you first saw?

A About four blocks.

Q About four blocks? A Yes, sir.

Q Now, didn't you tell Cohen, in Jewish, that, if he would

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state that a certain man poisoned the horse, that you would see that he is discharged? A No, sir.

Q You didn't? A No, sir.

Q You had no talk with him about that at all? A With him, no, sir. I was talking to a man outside, yesterday.

Q You say you didn't talk to Cohen at all while you went with him to the station house? A I did so.

Q Well, a little louder. I want to hear you. You did talk to him? A Yes, sir.

Q But you didn't mention --- you didn't say what I just now asked you; did you? A Repeat it, will you please?

MR. SCHLEIDER: Please repeat, Mr. Stenographer.

(The question is repeated by the stenographer).

A No, sir.

BY MR. SCHLEIDER:

Q Didn't Cohen ask you why you had struck him and didn't you say because he has no sense? A No, sir.

Q You are positive of that? A Yes, sir.

Q Now, at the time when you walked with Cohen, at the time when he was taken to the station house, he was searched, was he not, by the officer or by you, or somebody? A Not by me.

Q Well, by the officer? A Searched in the police station.

Q Searched in the police station? A Yes, sir.

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Q And his hands were examined; weren't they? A I don't remember that.

Q You don't remember that? A No, sir.

Q Well, there was nothing taken out of his pockets; was there? A I don't think so.

Q Well, as matter of fact, nothing was taken out of his pockets? A No, sir, not that I can remember now.

Q Now, this 'phone that you were talking about, this was, you say, near the back bar, this 'phone in the saloon?  
A On the end of the back bar.

Q Cohen was --- with respect to the middle of the floor of that saloon, where was Cohen standing? Nearer to the door? A Nearer to the end of the bar.

Q Near to the end of the bar? A Yes, sir.

Q Are there two bars in that saloon? A One.

Q Just one bar? A Yes, sir.

Q And the 'phone --- was that on the wall or standing on the bar? A Standing on the bar; a moving 'phone, that you can move.

Q And Cohen was a few feet away, drinking a glass of beer? A Yes, sir.

Q And was he facing the bar? A Facing the back bar.

Q As he stood? A Yes, sir.

Q Is La Indlow Street on the west or east side of the street? A On the east side of the street.

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Q On the east side of the street? A Yes, sir.

Q And, while you were talking, were you looking at Cohen all the time? A No, sir.

Q You weren't looking at his face? A I was merely looking at everybody that was in the saloon.

Q You were merely looking at everybody that was in the saloon? A Yes, sir.

Q And you were not looking at Cohen any more than you were looking at the people who were playing pinochle, or had a glass of beer there? A Well, counselor, I was looking at mostly everybody, which I didn't know, in the saloon.

Q Well, you were looking at everybody? A Yes, sir.

Q And you knew some persons and some you didn't?

A Yes, sir.

Q And Cohen was among the persons that you didn't know in the saloon; is that right? A Yes, sir.

Q Now, there is no doubt in your mind that Cohen, the man who was arrested, and who is sitting here, and who is being tried now, is the same man that you saw on Wednesday, January 3rd, 1912, at that place, drinking a glass of beer? A No doubt, sir.

MR. SCHNEIDER: That's all. No, just one question,

Mr. Rich.

BY MR. SCHNEIDER:

Q Did you speak to any of the witnesses who came to this

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court about this case? A I was speaking --- it was day before yesterday --- to a gentleman, outside here, who presented himself as his boss.

Q who represented himself as his boss, you mean?

A Yes, sir.

Q Do you mean Mr. Schwartz? A I don't know his name. I was introduced to him, and I was taken ----

Q No, I am referring to the witnesses who came here, and testified about the horse. Did you speak to any of those? Did you speak to Benjamin Cohen? A No, sir.

Q You did not? A No, sir.

Q Did you speak to Mr. Duhain, the Pinkerton man; yes or no? A Why, I was speaking to him different things, of course.

Q About the case? Not about different things? A No, sir.

Q Did you speak to Ginger about the case? Yes or no?

A No, sir.

Q Did you speak to the veterinary surgeon, Dr. Kemp, about the case? A No, sir.

Q Did you speak to this gentleman, the District Attorney, Mr. Manley, about the case? A No, sir.

Q Never in your life? A Only once before.

Q And how long ago was that? A Only a week or ten days ago.



Q And since then not a word? A No, sir.

RE DIRECT EXAMINATION BY MR. MANLEY:

Q You have come down to see me in my office with other witnesses; haven't you? A Yes.

Q And you have heard me ask witnesses questions in your presence? A Yes, sir.

Q And I have asked you questions in their presence?

A Yes, sir.

Q Now, when you went into that saloon, on the 3rd of January, did you have suspicions against any particular man in that saloon?

MR. SCHNEIDER: I object to that.

THE COURT: Sustained.

MR. MANLEY: The People rest.

MR. SCHNEIDER: If your Honor please, I move to dismiss the indictment, first, on the ground that the prosecution has failed to make out a case; and specifically on the ground that they have failed to prove that this defendant was in any ways connected with the commission of the crime.

I move to dismiss the indictment, secondly, on the ground that the prosecution has failed to prove that the poison analyzed by the doctor who testified here was the same thing as taken out of the horse's mouth, on the 5th

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day of January; that the witness Singer, and the witness Duhain identified a piece of paper, on which they had marked their names, but didn't identify the contents of that paper; and there is absolutely nothing to show that the contents of that paper, at the time that they were shown to Duhain and Singer, were the same as when they were taken out of the horse's mouth, on the 5th of January.

MR. MANLEY: Counsel is very much in error.

MR. SCHLEIDER: And I further move to dismiss the indictment, on the ground that the indictment on the face thereof is insufficient, insofar as that the indictment fails to allege the poison given to the horse was given to it with intent that it be taken by the horse, as required by Section 190 of the Penal Laws. The section just says that the poison must be given with intent, and I contend that the indictment must so state.

MR. MANLEY: It says, "Feloniously or unjustifiably administered." I don't see how a person could administer, without an intent that the horse should take. It is Section 190, your Honor.

THE COURT: Motion denied.

MR. SCHLEIDER: Exception.

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THE DEFENSE.

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J A C O B C O H E N, the defendant, of 90-92 Attorney Street, being duly sworn and examined through the Official Interpreter, Mr. Rosenthal, testified as follows:

DIRECT EXAMINATION BY MR. SCHLEIDER:

Q How old are you, Cohen, did you say? A 21.

Q And you have lived in the City of New York for how many years? A All the time since I arrived here.

Q And that means how many years? A It's going on five years.

Q You are married? A Yes, sir.

Q Married how long ago? A On March 4th, it was one year.

Q You have a child three months old? A Yes, sir.

Q What have you been doing for a living during the five years that you have lived in the City of New York? A I was a skirt operator.

Q For whom did you work, that is, who was the first employer that you had in the City of New York? A Mr. Schwartz.

Q And where is his place of business? A 36 and 38 West 20th Street.

Q What line of business is Mr. Schwartz in? A Skirt business.

Q What did you do for him? Operating skirts on the

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machine? A Yes; operator on the machine.

Q How long had you been working for Mr. Schwartz, from the time you were first employed by him? A About four years and a half; all the time since I have been here.

Q Is he the only employer that you have had while working in the City of New York, since you came from the other side?

A Only I arrived here and I was green, I worked for two weeks in a place where they were manufacturing men's clothing, and after that only for Mr. Schwartz.

Q Now, about October or November, were you, did you leave Mr. Schwartz, or did he ever ---- or did he discharge you, or what happened? A The season was very bad and some days we didn't make 50 cents and some days we didn't make anything at all. The season was very bad for skirts.

Q And then did you leave the shop? A Yes, I left the shop, and other people left the shop.  
Yes.

Q/ And are you a member of any union? A Yes.

Q What union? A 'Cloakmakers' Union.

Q How many years have you been a member of the Cloakmakers' Union?

MR. MANLEY: I object to that as immaterial, irrelevant and incompetent.

THE COURT: Sustained.

MR. SCHLEIDER: Exception.

BY MR. SCHLEIDER:

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Q Now, did you on the morning of January 5th, 1912, the day that it is claimed you administered poison to a horse, go to the delegate of the union, to ask him for different addresses where to get employment?

MR. MANIFY: I object to that as immaterial.

THE COURT: Allowed.

A Yes.

Q What is the address of this delegate or what is his name? A Wolf.

Q What is his address? A His name is Wolf, and it is in the Union, between Fourth Avenue and Broadway.

Q But in what street? A 19th Street.

Q Is that the district where there are lots of cloak and skirt shops? A Yes, sir.

Q How many times did you see him during the time preceding January 5th? A Every day.

Q Now, after you left Mr. Wolf, did you go to different places in the City of New York to look for work? A I was going around looking since Tuesday, in all the shops, because, in our line, if they need a workman they put out a sign and I was looking for such signs.

Q Now, at what time did you leave the delegate, Mr. Wolf, at 19th Street? A About nine o'clock, or a quarter of nine.

Q Did you go to any places looking for work on that

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morning? A Yes, sir; I walked around in the streets, to look for work.

Q Well, through what streets did you walk? A Greene Street, Merchant Street, Broadway and Canal.

Q Where did you go after that? A From Canal I went into Broadway.

Q East Broadway or Broadway? A No, Broadway.

Q Well, after Broadway, where did you go? A After Broadway I went to Madison Street.

Q Well, after Madison Street, where did you go? A From Madison Street I went into Cherry Street.

Q And from Cherry Street where did you go? A In Water Street, the street near the water.

Q Water Street? A Yes, sir; near the water. I don't know exactly where it was, but it was near the water.

Q Well, did you go to Market Street, that morning, that's what I want to know. A I don't know if it is Market Street or not.

Q Well, did you pass the street where you were arrested? A Yes, sir.

Q Now, as you were walking along this street where you were arrested, were you walking in the street or upon the sidewalk proper? A Near the sidewalk.

Q About what time of the morning of January 5th were you arrested? A I had no watch; I couldn't tell exactly.



Q Well, was it before ten or after, to your knowledge?

A It could have been about half past ten.

Q What was the first thing you knew about this arrest, or the cause of the arrest? Just tell the Court and jury.

A I didn't know anything, but it was very cold, it was a bitter frost, and I had no gloves, and I had my overcoat, and I raised the collar of my overcoat and fastened it with a pin (illustrating), and my hands I put into the sleeves of my coat, in order to warm them, because it was very cold (illustrating).

Q Well, go on. What happened next? A It was either in Madison Street, or near Madison Street, a man came up to me and put his hand on my shoulder, he struck me on the shoulder, (illustrating), I turned around, and he asked me, "Did you pass there near the horse?" I asked him, "What kind of a horse you mean? I didn't see any horse," and he didn't answer me anything. He only said, "Come along with me," and we went --- he went ahead of me and I followed him --- and he took me to the stable of the Street Cleaning Department, and there was a policeman and he arrested me, and then came the man who was on the witness stand before me.

Q One moment. You mean Mr. Rich, the stable boss, the last witness? A Yes, sir, the witness who preceded me. And both of them took me to the station house.

And the policeman went a little sideways from me, and I

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was holding my left hand in my pocket, and Rich was holding me by the arm, and then he asked me, "What are you holding in your hand? Take out your hand", and I did.

Q And then he put his hand into my pocket, and he didn't find anything. Then he was leading me, and he said to me, "Did you do that?" And I swore that I didn't.

And he asked me, "Did anybody send you?" I said, "I don't know anybody except a workman that I am working together with," and he said, "You charge those people whom I will name to you, and then I will let you go." I said, "I never bore false witness in my life, and I wouldn't say anything about anybody that I don't know," and with his right hand, he held on to my left arm, and with the left hand he struck me a blow in the face.

And then I fell towards the policeman, and the policeman kept me up, held me up.

And then twice more he struck me, so that the blood came out of my mouth, and he injured my lip. The marks can be seen now, on the inside and my lips were swollen.

And then another policeman came up, and put his hand on the shoulder of the man who was here as a witness before me, Mr. Rich, and with the other hand he was about to strike Mr. Rich, because he had hit me. They spoke English, and I didn't understand everything, but I understood that one policeman was reproaching the other policeman that he allowed the man to hit me.

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And another man came up to him and asked him, "Why do you beat him?" He said, "Get away, or I'll have you arrested."

And, on the way, they were quarreling with one another.

And then the policemen took me and led me to the station house. In the station house I was searched, and in all the pockets, too; and they found a small knife, about an inch or an inch and a half long, that I use at my work, and a ticket from a dispensary in Center Street, and that's they found.

Q Now, it was testified to by the witness Mr. Duhain --- in order to identify him --- it was the first witness that was called on the stand, a stout gentleman ---- that you, at the time you were around Madison and Market Street, at or near the store, number 41 or 33, I don't know which, looked at Mr. Duhain, looked at him over and passed by and returned, and went up to the horse, which was hitched to a wagon by the sidewalk and gave him something, or held out your hand to the horse? A Do you mean the witness who was here before yesterday?

Q I mean Mr. Duhain, the Pinkerton man. A You mean the first witness, day before yesterday?

Q Yes, the first one, just as we began to try the case.

A No; I was only looking at the walls, to look for a sign, to see whether there was a shop or a store of a ladies' dailor.

Q Now, Benjamin Cohen was a witness here, the driver of Rubin & Wilner. He testified, yesterday, that you went over to

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the horse, in front of 53 Market Street, and walked by the horse, and extended your hand near the horse's mouth or nose, or words to that effect. Did you do that; I was holding my hands in the sleeves of my coat (illustrating), because it was very cold, and to warm my hands I held them in the sleeves of my coat, except, from time to time, I would take out my hand, and put it to my ear, in order to warm my ear (illustrating).

Q Did you at all on that day go over to this horse and give it any substance, of any kind or nature, A I didn't see any horse or go up to any horse, no.

Q Did you give any poison to any horse or to a horse standing in front of 53 Market Street, known as arsenic or any other poison on the morning of the 5th of January? A I have never seen poison in all my life.

Q Have you --- how long have you lived at 98 Attorney Street, where you lived on the day you were arrested? A About three years.

Q And during the time that you have been married have you always lived at the same address? A No; after I got married I took rooms for myself in Norfolk Street.

Q On the day you were arrested where did you live?

A Together with my --- with the parents of my wife, in Attorney Street.

Q 98 Attorney Street? A Yes, sir.

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Q That is, you were living together with your father and mother-in-law? A yes, sir.

Q And how long did you live there before your arrest?

A About three or four months.

Q Now, getting down to January 3rd, 1912. Were you in any saloon or in a saloon 14 Ludlow Street, on January 3rd, 1912? A I wasn't in any saloon on any day, because I don't drink and I don't smoke. The doctor told me I couldn't smoke and I don't drink.

Q Now, it has been testified here by Mr. Rich that, on January 3rd, at five o'clock, or between five and five-thirty, or between five-thirty and six o'clock, on the 3rd of January, Wednesday, I think it was, you were in the saloon of a man named Solomon, having a glass of beer at the bar, and that you saw Rich and Rich saw you; is that true? A No, sir.

Q It has also been testified that, in the same saloon, there was some telephone communication between Mr. Rich and some other party, and that you stood there all the time while

Mr. Rich had these telephone communications; were you there on any such occasion? A No, sir.

MR. SCHLEIDER: I don't think I want to ask anything more. You may examine.

CROSS EXAMINATION BY MR. MANLEY:

Q How long had you been out of work before the 5th of January? A About four or twelve weeks.

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MR. SCHLEIDER: Oh, pardon me a moment.

BY MR. SCHLEIDER:

Q Have you ever been arrested and convicted of a crime in your life? A No, sir.

BY MR. MANLEY:

Q How long had you been out of work before the 5th of January last? A About ten or twelve weeks.

Q You haven't done any work at all during that time; is that right? A Except in my house, I used to take a job occasionally.

Q Now, look at me when you testify. Did you have any money on the 5th day of January? A I had on the bank a couple of dollars.

Q Is that all you had? A Yes, sir.

Q Now, what names did Mr. Rich give you when he said he wanted you to testify against them? A He didn't name any names, because I refused immediately.

Q You testified, a little while ago, that Mr. Rich told you to charge certain men with it, and he would let you go. Is that right? A Yes.

Q Didn't he give any names? A No, sir; because I told him right away that I wouldn't be a false witness against anybody.

Q Well, what did Mr. Rich say? Give us his words.

A The words that I have said, that's what Mr. Rich said to

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me.

Q Say it again, will you, please? A He told me, "Who sent you?" And I said, "Nobody, I don't know anybody, and nobody sent me," and he said, "I'll let you go home, but you shall say that on the people whose names I shall give you."

Q Did he give you any names at all? A No, sir.

Q Did he ask you whether you knew certain persons?

A No, sir.

THE COURT: Complete the answer. There was a part of it that was material, and which you did not give.

THE INTERPRETER: pardon me. I didn't catch it.

What was it?

THE COURT: The part that you omitted. Repeat the question to him and give the full answer.

(The question is repeated by the Interpreter).

A He asked me, first, "Who sent you?" And I said, "I don't know any of those people, and I don't know anybody, and no one has sent me, and I didn't do it."

BY MR. MANLEY:

Q Well, did he mention any names when he asked you if you knew any of those people? A No, sir.

Q Well, why then did you say that you didn't know any of those people? A He asked me who sent me, and I said, "Who could have sent me? Who do I know?"

Q Well, did you have anybody in your mind when you said

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you didn't know any of those people? A No one.

Q Now, is Jacob Cohen your right name? A Yes, Jake Cohen.

Q Did you refuse to give the name under which you came to the port of New York, in the Police Court, when they asked you that question? A I gave the same name, Jacob Cohen.

Q Do you remember signing a piece of paper that looked like that (indicating the Police Court papers)? A I didn't sign anything.

Q Well, can you read or write? A No, sir.

Q Can you write your name? A Not in English, but in Yiddish.

Q Did you write upon any paper by making a mark, on the same day that you were arrested? A No, sir; I remember I didn't make any mark.

Q Didn't somebody take a pen and write on a paper, and didn't you have your fingers on the end of the pen (illustrating)? A You mean in the station house or the police court?

Q I am now talking about the police court? A No, sir; no.

Q Did you do it in the station house? A In the station house I can't remember. I think not.

Q Were you asked certain questions in the police court by somebody? A Yes, there was a man that asked me questions

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in Yiddish, and I answered him in Yiddish.

Q Well, did you see that man write down anything after you had made the answers; did you or not? A Not to this man, but a man asked me in Yiddish, and I answered in Yiddish.

Q Did you see him writing? A Yes, sir.

Q Did he ask you your name? A Yes, sir.

Q And you said Jacob Cohen? A Yes, sir.

Q Did he ask you how old you were? A Yes, sir. I said 21.

Q And where were you born? A Yes, sir.

Q And what your business was? A Yes, sir.

Q And did he then ask you under what name you came to this country, and didn't you refuse to tell him? A No, sir; I wasn't asked this question.

Q Well, are you sure that you were not asked that question? A Yes, I am sure.

Q Well, if you had been asked, you would have answered

at right, and given the name under which you came?

A Whatever I was asked I answered, and the truth.

Q Did he ask you to what port you came when you came to this country? A No, sir.

Q Didn't he ask you that and didn't you refuse to tell to what port you came when you came to this country?

MR. PROSECUTOR: Object to that as already asked

and answered.

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THE COURT: I will sustain the objection.

BY MR. MANLEY:

Q Now, you say that you saw, upon that Friday, the 5th day of January, a man named Wolf, at nine o'clock in the morning; is that so? A Yes, sir.

Q And you left him at about nine o'clock; is that so? A Yes, sir.

Q Do you mind looking at me when I am questioning you, please? Now, was it about nine o'clock or are you sure about that, when you left him? A I saw him before nine, and I spoke to him and then I waited a little while and went away.

Q Was it about nine o'clock when you left him? A Perhaps a few minutes more or less; I can't say.

Q Whereabouts was Mr. Wolf when you left him? A In his office.

Q Where is his office? A 19th Street.

Q Broadway and 19th Street? A Between Madison Avenue and Broadway.

Q Between Madison Avenue and Broadway? A Yes, sir.

Q On 19th Street? A Yes, sir.

Q Now, where did you go first, after you left that place?

THE COURT: I suppose he means Fourth Avenue.

THE WITNESS: Fourth Avenue, or Madison Avenue, it

is the same thing.

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BY MR. MANIFY:

Q And where did you go next? A I went right away into Broadway.

Q Well, that's where you went first. A From Broadway I went into Fifth Avenue.

Q I want you to start, and tell me the places that you went into. I want to know the first office or shop that you went into, after you left 19th Street? A I didn't see any signs and I didn't go into any places.

BY THE COURT:

Q What was the nature of the work that you did?

A Skirts operator.

BY MR. MANIFY:

Q Didn't you go into any shop at all during that forenoon? A As I didn't see any signs that they needed workmen, I didn't go into any place. There was no use of going in.

Q When the answer is, I understand it, that you didn't go into any shop during that forenoon; is that so? A Yes, that's my answer.

Q Now, you testified that you went to Greene Street, from 19th Street and Broadway. Is that so? A There is no Greene Street there.

Q Did you go to Greene Street? A From Fifth Avenue to 19th Avenue I went, and then I went one block in one direction or the other block in another direction.



Q Well, did you land, some time in the forenoon, in Greene Street? A Yes, sir.

Q Did you walk up and down Greene Street? A No, sir; only down.

Q You were looking at the places of business to see if there was a sign out; is that so? A Yes, sir.

Q And then you went to Mercer Street; did you? A From Broadway, I had to go into Mercer Street, and then into Greene Street.

Q Did you, some time that forenoon, go into Mercer Street, looking for a job? A Yes, I was.

Q And did you finally come to Canal Street, some time that forenoon? A Yes, sir.

Q And then down to Madison Street? A Yes, towards Madison Street.

Q And you were looking at all the doors in all the streets through which you passed, for signs? A Yes, sure.

Q And you have testified that you didn't see any; haven't you? A Well, if anyone wants a workman, they write on the sign, in English as well as Yiddish.

Q That is my question. Now, do you read English?

A No, sir.

Q I suppose you read Yiddish? A Yes.

Q Did you look up any advertisements in any Yiddish newspaper that morning, to ascertain if anyone wanted an

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operator? A Yes; as soon as I left the house, I looked up in the Morning Journal.

Q And did you find anyone wanting a skirt operator?

A No, sir.

Q There wasn't a single advertisement for a skirt operator that morning? A No, sir.

Q And had you been watching the advertisements in the newspapers of work, or workmen wanted, for some time before that? A Yes, sir.

Q While you were out of employment? A Yes, sir.

Q And did you see any such advertisement? A Yes, before, once before.

Q How long before? A About three weeks before.

Q Now, then, you got to Market-Street? A I don't know the street. It is a broad street.

Q And you testified that you were on Market Street and went down Market Street as far as Cherry Street; is that so?

A I said I was in Water Street, and went into Market Street. I called it Water Street because the street is near the water.

Q Well, didn't you say something about Cherry Street?

A Before I was in Cherry Street and then I went to Water Street and then I went to Market Street.

Q Now, you know where Cherry, and Market Street, and Hamilton Street are? A Cherry Street I know, but I don't know Market Street.

Q Now, did you walk down a certain street, until you had to pass Cherry Street? A I went through the street to Cherry Street.

Q Well, you went down a certain street until you got to Cherry Street; didn't you? A Yes, sir.

Q And then, when you got down there, down at Cherry and Water Street, you walked back up the same street?

A Not back, but across the block.

Q Did you have to go back up the same street that you had previously gone down? A Not back, but across; I had to cross one street.

Q Well, now you say that you were looking at the walls, to see if there were any signs; is that so? A Yes, sir.

Q And you were doing that at the place where you were arrested? A No, sir; when at that place I didn't look for anything.

Q Well, then, at that place, you were simply walking along; is that so? A I was walking along, but there are no shops there, and I didn't look.

Q Then, in the street where you were arrested, there are no shops there, you say? A Well, I was looking for ladies' tailors, and I didn't find any there.

Q The question is whether you looked at any shops, or for any shop, in the neighborhood where you were arrested?

A No. I wanted to go into Division Street, because there

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there are many stores.

Q Well, the answer is final, if I understand it. You didn't look because there were no shops in that block; is that so? A I don't know whether there were or not, but I was walking a block and I didn't see any.

Q And were you, while in that same block where you were arrested, looking at the buildings on either side of the street? A No, because, when I got into the street I saw immediately there were only tenement houses, and no shops.

Q And then I suppose you were walking right along the street; is that so? A I crossed from one sidewalk to the other sidewalk.

Q Were you walking at that point through that block, or did you, at the time, stand still? A Walking all the time.

Q And were you walking on the sidewalk at any time? A One block I walked on the sidewalk, then I wanted to cross over to the other side.

Q Did you see a horse and wagon standing near where you were arrested? A No, sir.

Q You didn't see it until after you were arrested; is that so? A No, sir, not until after I was arrested.

Q Didn't you, at or near the place where these men grabbed you, see a horse and wagon, at the time of your arrest? A No, sir, I didn't look, and I didn't see.

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BY THE COURT:

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Q Where were you at that time? A (No answer)

BY MR. MANLEY:

Q How far from the curb were you when somebody grabbed you? A About two steps, perhaps.

Q Didn't anybody say anything about a horse, when they grabbed you? A Only the driver spoke to me; nobody else.

Q What did the driver say? A He asked me whether I had crossed, just now, near the horse

Q Well, didn't you see the horse when he said that, immediately after that was said? A No, sir.

Q Well, you didn't then, at any time, see a horse on that street, either before you were arrested or somebody grabbed you? A Oh, yes, I saw horses driving, being driven, but not standing in the street.

Q Didn't you notice that the horse and wagon standing a little ways from the place where somebody grabbed you? A No, sir.

Q How long had you been walking in the street just before you were grabbed; at what part of the block? A About two steps in that block.

Q You had only been walking on the street for two steps when you were grabbed, is that so? A I only crossed the street on the cross (sidewalk).

Q Were you in the very act of going from one side of the street to the other, when you were grabbed? A No, I was

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crossing, and I was looking into the other street (illustrating).

Q. Were you in the act of crossing from one side of the street to the other when you were grabbed? A I was about two steps near the sidewalk.

Q. (Question withdrawn). Had you been walking for some time, some little time on the street where the wagon passed, when you were grabbed, or were you crossing from one side of the street to the other? Now, which is it? A Oh, I had walked already about six or eight steps in that street.

Q. How long had you been walking on the street, the place where the wagon pass over, before you were grabbed? A I can't say how long; perhaps a minute or half a minute.

Q. Had you been waiting for half a block in the place where the wagons pass before you were grabbed? A I can't know that. I didn't count the blocks. What I don't know, I can't say.

Q. Do you understand what I am asking you? A I understand what the interpreter asked me.

Q. Do you know what a sidewalk is? A Yes, sir.

Q. And do you know what the street is, that the wagons pass over; do you know what that means? A Yes, sir.

Q. Now, then, you told me that you were grabbed by somebody on the spot where the wagons pass over; is that so? A I didn't speak to the District Attorney.

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THE FOREMAN: No, no, you did not put that question correctly.

BY MR. MANLEY:

Q Did you state, in response to my question, a little while ago, that you were grabbed by somebody in the place where the wagons pass over? A Two steps near the sidewalk.

Q And in the place where the wagons pass over? A It is a wide street and the wagons don't run up exactly to the sidewalk.

Q Do you know what curb is, on the edge of a sidewalk? A The end from the sidewalk?

Q (Question repeated) A I understand.

Q Well, then, do you understand what the sidewalk means, and what the curb means, and what the street is where the wagons pass over; do you know what those things mean?

A I understand.

Q Now, suppose that is the sidewalk (illustrating), and you have to go down to the street where the wagons pass over. Explain that to him. Do you understand? A (No answer)

Q I am representing this book as the sidewalk. This is lower, right here (indicating), and so, when you step from the sidewalk to where the wagons pass, you step down, and you step from the curb, as it is called, into the street.

A (No answer)

THE FOREMAN: He is mixed a little.

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MR. MANLEY: No, he isn't mixed at all; he only pretends to be.

MR. SCHLEIDER: And I protest against the remark of the District Attorney.

THE COURT: Yes, strike out that remark. Remarks should not be made. It is for the jury to determine whether he understands or not.

BY MR. MANLEY:

Q (Question repeated) Do you understand that? A I understand it.

Q Now, if you were walking in this direction, going up this way, you would be somewhere near where my finger is (illustrating), in the street, when you were seized; is that it? A I came from the other side.

Q Put your finger on the point in the street there, represented by this place (indicating), point out where you were seized?

THE FOREMAN: Where he was caught?

MR. MANLEY: Yes, where he was caught.

Q This is the sidewalk (indicating), and two steps from the sidewalk.

BY THE FOREMAN:

Q Is it where you were caught? A Yes, sir.

BY MR. MANLEY:

Q Now, see if you understand this. Were you walking

over in this direction (indicating)? A Yes, when I crossed, I started to go this way (illustrating).

Q Then do I understand that it was about here that you were grabbed (indicating)? A About two steps from the sidewalk.

Q For about how many feet had you been walking upon the space in here (indicating), where the wagons pass over, before somebody grabbed you? A Six or eight steps.

Q Before that had you been walking on this sidewalk over there (indicating)? A No, I crossed over.

Q Will you come down here and make a mark as to where you had been walking before you got here (indicating)? A I was walking on that sidewalk (indicating), and then I crossed, before I went from Water Street; and, as the sidewalk goes, I went onto the sidewalk in this street and I walked off the side-

walk into the street, and started to cross the street on a bias. I thought that, if I had crossed it straight, that way (illustrating), I would have to walk much more than cross it on the bias; I would say some steps.

Q Now, did you at any time while you were doing that see a horse and wagon? A I didn't see then any horse or any wagon.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until five minutes past two o'clock).

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After Recess.

J A C O B C O H E N, the defendant, his cross examination being continued, testified as follows:

CROSS EXAMINATION CONTINUED BY MR. MANLEY:

Q Now, you testified that you were not in the saloon at 14 Ludlow Street on the 3rd of January; is that so? A No.

Q And you testified that you were not there because you never drink; is that so? A I never drink.

Q Well, don't you ever go into a saloon at any time, for any purpose? A No, sir, I have nothing to go in for.

Q Well, do you know the proprietor of that saloon?

A I don't know whether there is a saloon there or not, at all.

Q Do you know the proprietor of that saloon, if there is such a saloon? A I don't know him.

Q Do you know a man named Solomon? A No, sir.

Q Are you willing to tell this jury who it was that got you to give that horse something, on the street, on that Friday forenoon, January 5th?

MR. SCHMIDT: I object to the question.

THE COURT: Sustained, as to form.

BY MR. MANLEY:

Q Were you on Ludlow Street on the 6th day of December last? A No.

Q At about three o'clock in the afternoon? A No.

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Q Or at any time that day? A I was never there.

Q You were never on Ludlow Street at any time? A I have passed through Ludlow street, as I was passing through other streets.

Q Now, didn't you upon the 6th day of December last, on Ludlow Street, between Canal and Hester, didn't you have anything to do with giving poison to a team of horses belonging to Mr. Rich?

MR. SCHLEIDER: I object to that on the ground it is not the date alleged in the indictment, and is incompetent, immaterial and irrelevant, and not within the issues.

THE COURT: I shall allow the District Attorney to ask this question of the witness, but the jury is instructed that, if the witness answers in the negative, the People are bound by the answer of the witness, and they jury has absolutely no right to draw from the question propounded by the District Attorney any unfavorable inference against the defendant. And do I have the assurance of each and every member of the jury that the Court's admonition will be accepted by you? If so, let all the jurors nod in the affirmative. This admonition of the Court is necessary, in view of a recent decision rendered by the Court of Appeals.

(The question is repeated by the stenographer).

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A No, sir.

BY MR. MANLEY:

Q Do you know where Mr. Kornblum's place is, on Ludlow Street, between Canal and Hester? A No, sir.

Q Or Mr. Dallek's place, in the same block? A No, sir.

Q Didn't you, upon the next day, the 7th of December, call up Mr. Rich at his stable at 14 Hamilton Street, on the telephone? A I never spoke over a telephone. I don't know how to speak.

Q Were you present when anyone in your presence spoke over a telephone at that time? A No, sir.

Q Didn't you hear anybody say over the telephone, "Mr. Rich, you have got to get right now \$700, or we'll poison your horses."

MR. SCHNEIDER: Now, I object. He has said that he was not present at any such conversation.

THE COURT: Objection sustained.

BY MR. MANLEY:

Q Did you on the 14th of December, on Avenue A, near 23rd Street, poison, or assist in poisoning a horse, belonging to Cohen, Rich & Cohen?

MR. SCHNEIDER: I object.

THE COURT: I shall allow the question, and, gentlemen of the jury, the same ruling will prevail, all of the jurors nodding to indicate that the Court's

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admonition will be accepted, and the stenographer will note that all the jurors nod their heads in the affirmative.

A I never poisoned any horses, and never had anything to do with poisoning any horses.

BY MR. MANLEY:

Q Do you know who did it? A I don't know. How can I know that?

Q Do you know about anybody, on the following day, the 15th, calling up Mr. Rich on the telephone and saying, "If you don't pay the \$700, we'll poison every horse you've got"?

MR. SCHLEIDER: Objected to.

~~THE~~ THE COURT: Sustained.

MR. SCHLEIDER: Now, one moment. May I ask your Honor to instruct the District Attorney not to ask any questions which he cannot back up with evidence, and, although I know your Honor is very fair in instructing the jury, but these statements are very damaging to my client. If he has any evidence to back up these statements I will withdraw my objection.

THE COURT: The jury will be instructed at the proper time, that they are only to accept matters which are admitted in evidence; and questions to which objection is taken and which are excluded, or questions

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which are excluded on the Court's own motion, must be disregarded by the jury; and the jury have absolutely no right to draw any unfavorable inference against the defendant from those questions that are excluded.

BY MR. MANLEY:

Q Did you on the 17th of December, have anything to do with poisoning a horse on the street, belonging to the same firm? A I never had anything to do with such things in all my life.

THE COURT: The same ruling will apply, gentlemen, concerning all of these matters, which are of a collateral character and concerning which the District Attorney has asked this witness; and the witness having answered in the negative, the People are bound by it, and you have absolutely no right to draw any unfavorable inference against the defendant.

BY MR. MANLEY:

Q Did you, on the 19th of December, have anything to do with poisoning a horse belonging to this firm on the street? A I have never had anything to do, in all my life, with such things.

THE COURT: The jury is bound by this man's testimony. I think you need not pursue this line further.

MR. MANLEY: No, sir, that's all. I've asked all that I desire to ask. That is all.

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THE COURT: One moment. I desire to ask a question or two.

BY THE COURT:

Q Now, when the driver, Benjamin Cohen, caught hold of you, do you remember what he said to you? A Yes, sir.

Q What did he say to you? A "You have crossed near the horse," and I asked, "What horse? I haven't seen any horse."

Q In what language did he speak? A Yiddish, plain Yiddish.

Q Did Mr. Samuel Singer

MR. MANLEY: He came up after this defendant was taken away.

BY THE COURT:

Q In what language did Samuel Singer speak to you?

A Who is Samuel Singer? The other driver?

THE COURT: Who is he?

MR. MANLEY: He was the man who was inside of the store, your Honor, the porter, I think, who first saw the defendant in front of the Street Cleaning Department stable, in Hamilton Street.

BY THE COURT:

Q In what language did he speak to you?

THE COURT: Is Singer here?

MR. MANLEY: No, I didn't subpoena him here to-day. He has lost four and half days in his work, already.

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A He didn't speak to me at all.

BY THE COURT:

Q How long have you been in this country? A Going on five years.

Q Did you go to night school? A I had no time to go there, I had to work.

Q Do you speak any English? A I speak a couple of words, but not good.

THE COURT: Well, let him speak in English. Turn around here.

BY THE COURT:

Q What is your name? A Jacob Cohen.

Q Well, talk up loud. Don't be afraid. A Jacob Cohen.

Q Where do you live? A 99 Attorney Street.

Q 99 Attorney Street? A Yes, sir.

Q Do you know what a horse is? Do you know what the word "horse" means? A (No answer)

(The question is repeated through the Interpreter).

A No, sir. I never heard it.

Q Do you know what Jewish word is used for the English word "shoulder"? A Yes, it is the shoulder (indicating).

In Yiddish, it is also "shoulder".

THE COURT: Is that so, Mr. Interpreter?

THE INTERPRETER: No, it is not. It is an English word.

THE COURT: I observed, tell him, that he says that the man took hold of him by the "shoulder". Now, ask him whether there is in the Yiddish vocabulary the word "shoulder".

A Why, in America, the workmen call that "shoulder", even in their Jewish jargon.

THE COURT: Now, let him answer me in English.

BY THE COURT:

Q Now, on what floor do you live? A Fourth.

Q Did you ever live on Cherry Street? A (No answer)

THE COURT: Put that to him in Yiddish.

A Yes, sir; when I was green, when I first arrived.

Q What was the number? A It was 222, I think.

Q Between what streets? A Between Rutgers and Pike, near the bridge.

Q How long ago? A Five years ago, after I had arrived here.

Q Where did you work as a skirt maker? A For Schwartz.

Q Where? A 20th Street.

Q Where? A 20th Street.

Q Did you ever work as a skirt maker in the neighborhood of Cherry, Monroe, Madison, Pike or Hamilton Streets? A I only worked in one place, for Mr. Schwartz; in no other place.

Q Did you have reason to believe that there were persons engaged in the business of manufacturing skirts in the streets

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which I have mentioned? A I know that in that neighborhood there are outside shops, working places.

Q Do you know the name of any persons who are engaged in that business? A No, sir, I don't. Before that I have never looked for any such places.

Q Well, why did you go into that particular neighborhood, on the day in question? A I didn't only go into that street. I went into many streets, looking for work. Every day I used to go into other streets to look for work.

Q How long did you work for Schwartz? A All the time since I came to this country.

MR. MANLEY: I have no further questions.

HERNANDEZ DEROW, of 90 Attorney Street, a witness

called on behalf of the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SCHLESER:

Q What do you work at, Derow? And speak up loud? A I am a cabinet maker by trade.

Q Cabinet maker? A Yes, sir.

Q How old are you? A 24.

Q Do you know Jacob Cohen, the defendant? A Yes, sir, I do.

Q Did you live together with him in the month of January

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of this year? A Yes, sir.

Q Where? A At 90 and 92 Attorney street.

Q Now, do you remember the first week in January, particularly the 3rd of January, if you remember, between five and six, or towards six o'clock, if Cohen was home in 92

Attorney Street? A Yes, I do.

Q Was he home at that hour? A At what date? On Wednesday, you say?

Q On what date? Well, two days before he was arrested, which would make it January 3rd, Wednesday. A Well, I remember the whole week, and Wednesday included, that, whenever I used to come from work, about a quarter to six or six o'clock, I find him home.

Q You found him home? A Yes, sir.

Q Did you and he and Mrs. Cohen and the mother-in-law and the father-in-law all live in the same house? A Yes, sir.

Q Did you eat supper together around six o'clock?

A Yes, sir.

Q For how many years have you known Jacob Cohen? A For

Q One year? A A little over a year.

Q Do you know other people who know him in the neighbor-

Q Yes and where you live? A Yes, sir.

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Q Did you ever talk to people in the neighborhood where Cohen lives and you live about Cohen? A No, sir.

Q You never did? A No, sir.

Q Well, what is Cohen's reputation, so far as it is known to you and the people in the neighborhood where you live and he lives, with respect to truth and respectability?

MR. COHEN: I object to that.

MR. SCHMIDT: I will withdraw the question.

BY MR. SCHMIDT:

Q Now, what is his general reputation, the general reputation of Cohen, in the neighborhood in which you live and you live, in regard to honesty, and peacefulness and respectability? Is it good or bad? A Good.

CROSS EXAMINATION BY MR. MANLEY:

Q Now, you say you have lived with him, or in the same house with him, for about a year? A Yes, sir.

Q And do you want to tell us this, that, between five and six o'clock on the 3rd of January, which was a Wednesday, that the defendant was in that house between five and six o'clock? A I know that he was home when I got through work, and I got home, between five and six o'clock.

Q Well, I suppose you testify to that, because a good many times that week he was there when you got home? A And this week, too, when he got arrested.

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Q Well, I say, you think that probably the defendant  
at  
was/home between five and six o'clock on the 3rd of January,  
Wednesday --- A No, I don't think. I'm sure of it.

Q Are you sure that Wednesday, January 3rd, between five  
and six o'clock, the defendant was in the house? A Yes, sir.

Q Now, what makes you sure of it? A Why, I came from  
work, and I found that man in the house, and they were getting  
ready for supper.

THE FOREMAN: We can't hear him, Judge.

BY MR. MANLEY:

Q Speak up. A (Answer repeated)

Q And you think so that he was there, on that afternoon,  
between five and six o'clock, because he was usually there  
when you came home, that week?

MR. SCHLEIDER: I object. The witness says he  
knows.

MR. MANLEY: I will withdraw the question.

BY MR. MANLEY:

Q Well, you testified positively to this jury that, on Wednesday,  
between five and six, the defendant was in the house? A Yes,  
sir.

Q Now, tell the jury how you know it? A Well, I worked  
until five o'clock, and it takes me half an hour or three  
quarters of an hour to get home, and, when I got home, the  
Mrs. of the house was preparing supper, and he also was in

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the house.

Q Now, you can remember that she was preparing supper, on Wednesday, when you came home? A Yes, sir; and the defendant was --- Jacob Cohen was in the house.

Q Now, I want to know if you testify that he was home between five and six o'clock on Wednesday, because he was usually home at that hour, or whether you can positively remember, offhand, very positively, that he was home at that time? A Yes, I can positively remember that he was at home in the house, on Wednesday.

Q Now, what time did you get home on Wednesday?

A About a quarter to six.

Q Well, you, of course, don't know, if he was there at that time, how long he had been there? A How long he was in the house before I came in?

Q Yes. A Well, I couldn't tell you that. All I know, when I came in, he was there in the house already.

Q And you didn't know, I suppose, before to-day, that anybody wanted to know where Cohen was on the 3rd of January; did you? A Yes, pardon?

Q (Question repeated) Did anybody ever ask you about that? A No, sir, nobody asked me that.

Q Not until to-day? A No, sir, not even that day, not except now, when I hear from you that question.

Q Now, didn't somebody ask you that question, whether

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he was there between five and six o'clock, on Wednesday, before you went on the stand? A No, sir.

Q Didn't the defendant's lawyers ask you that, before they put you on the stand? A No, sir.

Q Now, I don't want to take any advantage of you. I want you to thoroughly understand me. Now, didn't anybody ask you at all, after testimony went into the case as to where he was on Wednesday, January 3rd, between five and six o'clock, as to where he was at that time? A No, sir.

Q And so the first time anybody asked you was when you got onto that stand?

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Q Now, at that time, you thought/ before to-day, before you came into that stand, you thought about where Cohen was on Wednesday, the 3rd of January, between five and six? A I wish you would repeat the question.

Q Now, is there any reason why you should have thought, before to-day, as to where Cohen was on Wednesday, January 3rd, between five and six? A Well, there was no reason at all. I find every time I used to get home, I find him home.

Q Now, where was he on the 30th of December, between five and six? A December?

Q Yes. A Well, he was there in the house too.

Q Between five and six was he there, too? A Well, I come from work about a quarter past six, and I generally find him in the house, and we eat supper in the house together.

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Q Now, you are testifying then, generally, that you usually found him in the house at a quarter to six in the afternoon; aren't you?

MR. SCHLEIDER: Objected to.

MR. MANIY: Very well. I have no further questions.

CHARLES LAWSON, of 648 Grand Street, Brooklyn, a witness called on behalf of the Defense, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. SCHLEIDER:

Q Mr. Lawson, are you a married man? A Yes, sir.

Q How old are you? A 28 years.

Q And you work for Schwartz? A Yes, sir.

Q Where is his shop? A 20th Street.

Q What is the number? A 36 and 38.

Q Now, how long have you been working for Schwartz?

A Nine years.

Q Do you know this man that I am pointing to (indicating the defendant)? A Yes, sir.

Q What is his name? A Jake Cohen.

Q Jake Cohen? A Yes, sir.

Q All right. How long have you known Jake Cohen, this

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defendant? A Since he came to this country. He came up to the shop to work.

Q And how long ago is that? A About four and a half years.

Q And during those four years and a half <sup>did</sup> that Cohen work with you in Schwartz's shop? A Yes, sir.

Q In the same shop? A Yes, sir.

Q Every day of every week? A Yes, sir.

Q And <sup>do</sup> you know others who know him? A Yes.

Q Four or five more? A Many people, yes.

Q And what is Cohen's general reputation among the people who know him for peace, and honesty and truthfulness; good or bad? A Very good.

CROSS EXAMINATION BY MR. MANLEY:

Q Do you still work for Mr. Schwartz? A Yes, sir.

Q And have you been working for him all the time?

A Right along, for nine years and a half.

Q Right along? A Yes, sir.

Q Every month? A Yes, straight.

Q Did you work there last January? A All the time, and even at the present time.

Q Did you work there last December? A I said all the time steady.

MR. MANLEY: That is all.

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F A N N Y     B E R L A T, of 92 Attorney Street, a witness called on behalf of the Defense, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. SCHLEIDER:

Q Mrs. Berlat, are you a married woman? A Yes, sir, I've been married for twenty years.

Q You are living with your husband at 92 Attorney Street? A Yes, sir.

Q The same house where the defendant lived? A Yes, sir; only it was next to the other house.

Q And how long have you lived in that house? A Three years I have lived with the Misses.

Q And when you say the Misses you mean Mrs. Derechinsky, the mother-in-law of the defendant? A Yes, sir, the mother of the wife of the defendant.

Q Did you, during the past year, or more than the past year, have occasion to visit the rooms of Mrs. Derechinsky, and during such visits did you ever see Cohen there? A Yes, sir.

Q During the three years how often per week or month did you go to Mrs. Derechinsky's rooms? A Every day.

Q Now, do you remember of hearing about Cohen's arrest? Yes or no? A Yes.

Q Now, referring to a week or two before you heard he

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was arrested, do you remember visiting Mrs. Derechinsky and seeing Cohen there, eating his supper, and, if so, between what hours did you see him eating his supper? A Yes.

Q About what time would you see him eating his supper?

A About six or seven o'clock.

Q Speaking of the week or two before he was arrested, see if you can fix that time in your mind. Do you remember when you saw him at home, a week or two before he was arrested?

A yes, sir.

Q When would you see him come home? A Between three and four he was at home, and he didn't go out any more.

Q Now, do you know other people in <sup>the</sup> neighborhood where you live, and where Cohen lived, that know Cohen? A Yes, sir.

Q What is Cohen's general reputation for peace, honesty and truthfulness; good or bad? A Very fine.

No cross examination.

CHARLES LEIBNER, of 736 Fifth Street, a witness called on behalf of the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SCHLEIDER:

Q Mr. Leibner, how old are you? A 27.

Q 23? A No, 27.

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Q Now, are you a marriedman? A No, single.

Q Have you been working for Schwartz the past few years? A Yes, sir.

Q The same Schwartz that Jacob Cohen has been working for? A Yes, sir.

Q A cloak and suit man? A Yes, sir.

Q How long did you work for him? A For two years.

Q And during the two years that you have worked there have you seen him working there (indicating the defendant)? A Yes, sir.

Q Up to about October or November? A Yes, sir.

Q He was working steady? A Yes.

Q And do you know other people who know Cohen?

A Yes.

Q What is Cohen's general reputation for honesty, and peace and truthfulness; good or bad? A Good.

CROSS EXAMINATION BY MR. MANLEY:

Q You worked there in December last? A Yes, sir.

Q Did Jacob Cohen work there during December last?

A Yes, sir.

Q All the month? A What's that?

Q Did Jacob Cohen work there all during last December?

A Last December?

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Q Yes. A Until October he worked.

Q He didn't work after October? A He didn't work after October.

Q Did you work there during November? A Yes, at the same place. I worked there straight for two years.

Q And you worked there during last December and January, too; did you? A Yes, sir.

BY THE FOREMAN:

Q What are you doing there? A I am working there.

Q I mean, what is your work? A Operator.

Q On what? A On skirts.

Q On skirts? A Yes, sir.

Q How is it that he couldn't get any work? A Because the boss makes cloaks, and he has no machine for this man.

Q At that time, how many machines did he have for the operators on skirts? A Eight or ten.

Q And they were all used by the other operators?

A Yes, they were used.

Q For skirts only? A Yes. Then the boss had cloaks, and he didn't have no machine for this man.

Q Did he stop making skirts then? A Oh, no, he makes skirts yet.

Q But his principal business, now, is cloaks? A Yes.

Q But he made skirts then? A Yes, sir, and he makes them now.

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Q Buthe makes cloaks and subts now? A Cloaks and suits.

Q For the Spring trade; is that it? A Yes, since October.

MORRIS DERECHINSKI, of 90-92 Attorney Street, a witness called on behalf of the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SCHLEIDER:

Q You are the father-in-law of the defendant? A Yes, sir.

Q How long have you known him? A Two years, going on three years.

Q Now, is he married to your daughter over a year?

A More than a year.  
about

Q Up to October of last year, did they live together in rooms separately, did they live in rooms separate from your rooms? A Yes, for themselves.

Q And since around October or November, did they move into your apartment, and, October, November, December and January, live together with you, in the apartment that you had in Attorney Street? A Yes, and the baby was born in my house.

Q Now, during the year or two that you have known him,

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what has been his reputation with respect to honesty, and truthfulness and peace; good or bad? A Always good; a fine man.

Q Now, do you remember the day he was arrested? Can you fix that in your mind? You know he was arrested? A Yes, sir.

Q Now, what time do you come home in the evening, what time do you get home? A Six o'clock, or a quarter after six sometimes.

Q Now, referring to the week or two before Cohen was arrested, you remember, when you came home at six o'clock, or before or after six, if Cohen was home or not? A When I came home from work, he always was at home.

Q Do you remember two days before January 5th, the day that he was arrested, Wednesday; can you remember that day, when he came home, or, rather, when you came home at a little after six, whether you found Cohen home or not when you came home? A I can't say; I don't remember the day; but I can only say that, whenever I came home, I always used to find him at home.

No cross examination.

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I S I D O R E      R O S E, of 444 Baltic Street, Brooklyn, a  
witness called on behalf of the Defense, being duly  
sworn and examined through the same Official Interpreter,  
testified as follows:

DIRECT EXAMINATION BY MR. SCHLEIDER:

Q. Are you in business now? A. Yes.

Q. What kind of business? A. In dry goods business.

Q. How long are you in business? A. I've been in busi-  
ness about seven or eight weeks.

Q. Do you remember the week of January 1st, 2nd, 3rd,  
4th and 5th, that particular week; do you remember that?

A. Yes, sir.

Q. Do you remember ever meeting Cohen? A. Yes, sir.

Q. At any place? Do you remember meeting Cohen at any  
place that week --- I mean this man, (indicating the defendant)?

A. Sure.

Q. Where did you meet him? A. In the office of our Union.

Q. Where was the office of the union? A. The office of  
the union is in 49 East 19th Street.

Q. You are referring to the Cloak & Suitmakers' Union?

A. Yes, sir.

Q. All right. Who did you meet there? A. I met different  
people there, various cloakmakers; all those who came to look  
for a job.

THE COURT: My recollection is that, when the defendant

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was on the stand, you asked him whether he was a member of the Cloakmakers' Union, and the District Attorney objected, and I sustained the objection, because, at that time, I did not see the materiality of the evidence. I will now allow you to ask that question.

MR. MANLEY: And I have no objection at all that that question be asked him now, now that it becomes material.

MR. SCHLEIDER: May I ask him that question, now, your Honor?

THE COURT: Yes.

BY MR. SCHLEIDER:

Q (Addressing the defendant) Are you a member of the Cloakmakers' Union? A (By the defendant) Yes.

Q What is the number of that Union? A Local 23, Cloakmakers and Skirtmakers Union. It is all the same.

Q How long have you been a member of that Union?

A In July it will be two years that I am a member, since the general strike.

BY MR. SCHLEIDER:

Q (Addressing the witness on the stand) Now, are you a member of the same Cloakmakers' Union, Local No. 23?

A Yes, sir.

Q And, on January 4th, do you remember meeting Cohen, and speaking to a certain person who was a delegate of the

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Union, about work? A Yes, sir.

Q Who was that delegate; do you remember? A Mr. Wolf.

Q Well, did you and Cohen go any place, after talking to Wolf? Yes or no? A Yes.

Q Where did you go? A We went together to look for a job in 27th Street.

MR. MANLEY: Did you get that right? You asked about January 4th.

MR. SCHLEIDER: Yes, January 4th.

BY MR. SCHLEIDER:

Q You know other people who know Cohen; don't you?

A Yes; I know a lot of workmen. We worked together.

Q And what is his reputation for honesty, peace and truthfulness; good or bad? A Good.

No cross examination.

F R I D A D E R B C H I N S K Y, of 92 Attorney Street, a witness called on behalf of the Defense, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. SCHLEIDER:

Q Are you the mother-in-law of Jacob Cohen? A Yes, sir.

Q And he has lived with you since October, 1911? A Yes.

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sir.

Q Do you remember, speaking of October to January 5th, while he was out of work, what time he would go to look for work and what time he would return for supper? A Yes, I know.

THE COURT: How would she know what he did?

BY MR. SCHLEIDER:

Q Well, what time would he leave the house and what time would he come back, during that period?

THE COURT: Well, that is different.

BY MR. SCHLEIDER:

Q Do you know that? A Yes, sir.

Q Well, when would he go away and when would he come back? A He used to get up at seven o'clock and go out and look for a job.

when

Q And/would he come back? A Between three and four he usually returned home.

Q Now, speaking of the week before he was arrested or a few days before he was arrested, do you remember his coming home, as you say, at three or four o'clock? A He always used to come home between those hours.

Q Do you remember in October, when Cohen stopped working for Schwartz, whether he had any money in the bank, if Cohen had?

THE COURT: How would she know that?

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MR. SCHLEIDER: Well, she might know it, and know whether he was so poor that he would have to go out and look for trouble, because he was poor.

A He had no money.

Q Well, you had money in the bank; didn't you? A Yes.

Q And Cohen lived in your rooms during those three or four months? A Yes, sir.

CROSS EXAMINATION BY MR. MANLEY:

Q Did he come in at any different hours of the week before he was arrested than before that? A No, all the time he used to come home at the same hour.

BENJAMIN LICHTLING, of 54 Lewis Street, a witness called on behalf of the Defense, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. SCHLEIDER:

Q And you have been working with Cohen, for Schwartz, for how many years? A About two years.

Q Now, about October, do you remember whether Mr. Schwartz changed his line of business from skirts only to cloaks and suits, or to skirts and suits? A Yes, he made less skirts.

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Q Talk up; will you? A He had a shop of skirts, and he changed it, and started to make cloaks, and it came out so that that section which had to be taken for the manufacture of cloaks, the people had to be sent away, discharged.

Q Now, do you remember, about a week before Cohen went away, whether he worked a full week at skirts, or whether he only worked a part of the week or part days? A It wasn't a full day's work, but whatever work it was, we all worked at it.

Q Well, the week that Cohen left, did you work six full days, you yourself? A No.

Q Now, do you know people who know Cohen, other people besides yourself? A Yes, sir.

Q Now, what is his general reputation, the general reputation of Cohen for peace, honesty and truthfulness; good or bad? A Good.

CROSS EXAMINATION BY MR. MANLEY:

Q I suppose you just used to see him up there in the shop; is that it? A Yes.

Q Did you see him nights? A No.

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J U L I U S W O L F, of 350 East 15th Street, a witness called on behalf of the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SCHLEIDER:

Q Now, Mr. Wolf, please talk loud so that you can be heard by all these gentlemen. Now, How old are you? A About 50.

Q 30? A Yes, sir.

Q And are you the delegate of the Cloak & Suitmakers' Union? A Yes, sir.

Q What is the number of the local, of the Union that Cohen belongs to? A Local 23.

Q You can talk louder. Please talk louder. Local 23? A Yes, sir.

Q How many years have you been connected with this particular Union? A About six years.

Q Six years? A Yes, sir.

Q Do you remember Jacob Cohen? You know him; don't

you? A Yes.

Q How long have you known him? A About four years.

Q Do you remember during those four years, he has been a member of this Union, Local 23? A He is a member of this Union, in all, two years.

Q Nearly two years? A Yes.

Q And he is still a member? A Yes, sir.

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Q Now, do you know in what shop Cohen worked during the two years that he was a member of this Union? A By Louis Schwartz.

Q Louis Schwartz? A Yes, sir.

Q Do you know where Schwartz's place of business is?

A Yes; 30 West 20th Street.

Q In the City of New York? A Yes, sir.

Q Do you know whether he worked steadily there for two years? A Yes, sir.

Q Do you recollect October, 1911, and try to fix the month up to January 5th, 1912? Do you recollect seeing this defendant, Jacob Cohen, off and on, at your office, the office of the Union during that time? A Yes, very often.

Q Now, how many times did you see him at this Union where you are a delegate? A During the month of October I saw him the last two weeks, in the end of October.

Q Yes, you saw him the last two weeks of October?

A Yes, sir.

Q And did you see him in November and December also?

A Yes, sir.

Q Now, did you see him between January 1st and 5th?

A Yes, sir.

Q Did you see him on the morning of January 5th? A Yes, sir.

Q Do you remember a man by the name of Rose; do you know

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whether such a man is a member, or was a member, on January 4th, of the same Union? A Who?

Q The witness Rose, who was here before? A Yes.

Q Did you see him in the hallway here? A Yes.

Q You know the man I'm referring to? A Yes.

Q You say he was also a member of the same Union that Cohen was? A Yes, sir.

Q Do you recollect seeing this man Rose and Cohen, about the 4th of January, on the morning of the 4th of January, 1912? A I sent him several times to get jobs; I tried to get him a job; and I remember, one time, I sent Mr. Rose and Mr. Cohen to a shop, but I believe this was in the beginning week of January.

Q Now, during what hours would Cohen come to your office, to ask for information as to where he could get employment? A Every morning, at nine o'clock.

Q And do you remember him calling the morning of January 5th; do you? A Yes.

Q You heard he was arrested after that? A Yes.

Q Of course, you don't know anything about the arrest?

A No.

Q Now, during those two years, Mr. Wolf, that you, as delegate of the Union, knew Cohen, you had occasion to speak about him to other people that knew him; is that correct?

A Yes, sir.

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Q. And you must have spoken about Cohen to those people 25 or 50 times, during those two years? A. Yes, sir.

Q. And did you ever visit that shop where he worked? A. Yes, sir; several times.

Q. Several times? A. Yes, sir.

Q. About how often during those months did you visit that shop? A. Every month, or every three weeks.

Q. It was part of your duty as delegate to visit the different shops? A. Yes, sir.

Q. And during those visits you have occasion to learn all about those workmen who were working in the shop, that were members of the union? A. Yes, positively.

Q. And in that way you learned about Cohen; is that right? A. Yes, sir.

Q. Now, will you state, Mr. Wolf, what Cohen's general reputation among the different people that knew him and knew you was for peace, and honesty and truthfulness; good or bad? A. Good.

Q. You are not related to him? A. No, sir.

Q. You have never seen him since he was arrested?

A. No, sir.

Q. You have been subpoenaed and asked to come to court?

A. That's all.

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## CROSS EXAMINATION BY MR. MANLEY:

Q What is the position, Mr. Wolf, that you occupy in that Union? A What do you say?

Q What is the position you hold in that Union?

A I am the Business Agent for the Cloak & Suitmakers' Union.

Q And as such you have something to do with getting the members jobs, when they are out of work? A Well, people are coming to our office sometimes, because we are walking between the jobs, and we know where it is busy, and where it is not busy, and very often we can get them a job.

Q How many members are there in that Union, in that Local of the Union? A About 8,000.

Q But how many in that particular branch or Local that you have something to do with? A Well, that is according to the district.

BY THE COURT:

Q Well, how many in that district? A Skirtmakers?

Q Yes. A I believe about 3,000.

BY MR. MANLEY:

Q And they are coming there when they are out of jobs to see you, as Business Agent, and ask you to get them a job? A Not all of them.

Q But those that happen to be out of jobs? A Yes.

Q And I suppose there are a good many that are out of jobs from time to time? A Yes.

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Q Now, when did you first hear of the arrest of this defendant? A In the first week he was arrested. This was, I believe, on the 8th or 9th of January. I heard it the first time then.

Q Now, had he been coming up there to your place of business, where the office is of the Union, right along, since the 1st of October? A Yes.

Q Almost every day? A In the month of December --- in the month of November he didn't come so often, but, in the month of December and the beginning of January, he was there every morning in my office.

Q Every morning throughout December and January?

Yes, sir.

Q Now, do you remember that he did come there on Friday morning, the 5th, or do you think that he came there, because he always came there? A No, he came because I remember that

I advised him to go and look for a shop on the East Side, because we know that there is plenty of shops for skirts there..

Q Well, did you make any entry in any book? A No.

Q Then you were not able to find him any job from the 1st of October until the time he was arrested? A What do you say? I don't understand you.

Q (Question repeated) A If I was able?

Q Did you find him a job, did you succeed in getting him

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a job? A No, I didn't succeed.

RE DIRECT EXAMINATION BY MR. SCHLEIDER:

Q Now, just one question, Mr. Wolf. Did you, as delegate, know of different neighborhoods below 14th Street, where there are shops of skirtmakers; do you know that?

A Yes.

Q And you have a list of them? A Yes, I have a list of shops.

Q But outside of the list, can you tell me different streets beginning with Grand Street, and from Grand Street

south, from the Bowery east, can you tell me of streets where there are skirt shops, outside shops? A There is probably in every street on the East Side, there is shops for skirts.

Q There is? A Yes, sir.

Q In order to make certain, can you remember the streets where there are skirt shops, without looking at your list?

Can you remember that, without looking at your list, the different streets where there are skirt shops? A There

are, for instance, some on Pike Street.

Q Pike Street? A Yes.

Q Go on. A Jefferson Street.

Q Yes. What else? A East Broadway, Division street.

Q Are there any on Madison, that you know of? A Which Street?

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Q Madison Street? A Yes, on Madison Street.

Q Any on Cherry Street that you know of? A Yes.

Q And any on the streets east of Jefferson or west of Jefferson? A This I can't know, because we only know the numbers of the streets.

Q Would there be any around Monroe Street? A Yes, there is.

Q And there are plenty on Division Street? A Yes.

BY CROSS EXAMINATION BY MR. MANLEY:

Q You say almost every block on the East Side may or does have skirt shops? A Yes, I think on every block, on every street on the East Side there is shops of cloaks and suits.

BY MR. SCHNEIDER:

Q Will you take your list out, and read the shops you know, without guessing at it?

MR. MANLEY: Well, I object to that. He says that on almost every block on the East Side there are shops.

BY THE COURT:

Q Well, have you personal knowledge that there are shops on the streets that you have mentioned? A (No answer)

Q Who prepared this list for you? A Well, we have a list in our office from every shop. But it is impossible for me to get in my head every shop, where they are located.

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Q Well, who prepared the list which you mentioned?

A Now, we are getting in our office a list from every shop.

THE COURT: No, I could not allow that evidence to go in, except upon consent, because, after all, it is evidence prepared by the members of the Union, and not by the witness himself.

MR. SCHLEIDER: Well, I will find out if it is of his own knowledge. Will you Honor permit me a question or two?

THE COURT: Yes.

BY MR. SCHLEIDER:

Q Do you know by looking at that list, of your own knowledge, or will you be able to recognize what shops there were on the East Side in January, 1911? A How many there are?

Q Yes, in each street? A Well, in some streets 10 or 12 shops; and, in some streets, a hundred shops, and in some streets, 200. For instance, in Division Street is the most of the shops, and also on East Broadway; and the other streets is less shops.

Q On Pike Streets and the other streets that you mentioned? A Yes.

BY THE FOREMAN:

Q When you seen him last before he got arrested, did you advise him to look on the East Side? A Yes, sir.

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Q Did you mention any street where he should look for work? A No, I didn't mention any street. I only told him he should, walk around the East Side, because mostly skirts are made in outside shops.

Q Well, can you explain what you mean by the East Side?

A Well, I think it is East Broadway, Division Street, Montgomery, and Division Street and Jefferson Street.

Q And isn't he acquainted in any of those streets as well as you are, that he could go by himself without asking

you to tell him? Didn't he know where those streets are to find work? A I think so. He come to my office, and asked me to get him a job and I tell him to go to the East Side, because there are outside shops there for skirts.

Q Did you mention any particular streets to him?

A No, sir.

Q Did he ask you for the streets? A No, sir.

Q So he went on the East Side, he went in those streets what you mentioned before, at your advice, he went to the East Side? A Yes, I advised him several times to go to the East Side.

BY MR. MANLEY:

Q And you probably told him several times to go on the East Side, because there were shops there? A Yes; and in the beginning of January and the end of December, I told him the same thing.

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BY THE TWELFTH JUROR:

Q Now, what do you mean by shops on the outside?

A For instance, there are shops that are making suits. The jackets and vests are made on 20th Street and 25th Street, and the coat manufacturers are giving out skirts to outside contractors, and their shops are on the East Side.

Q Do you mean that the work is done away from the ----

A Away from the inside factory, to the outside shop.

BY THE COURT:

Q By contractors do you mean? A Yes, contractors.

Q That is, that the manufacturers give out work to contractors? A Yes, sir.

Q And these contractors have private places, over on the East Side? A Yes, sir.

Q Lofts? A Yes; because they are small rent there.

BY THE FOREMAN:

Q I want to know if the shops that you just mentioned --- why do you call them outside shops? A No, there is a good many of them on the East Side that is inside shops too.

Q Well, what do you mean by outside shops? A A contractor what takes out inside work from the factory.

Q What kind of work? A All kinds of work.

Q Well, now, would you say cloaks and suits? A Yes.

Q And the cloak is made by itself and the suit is made by itself; and which is made by the Union shop, and which is

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made by the outside shops? A Outside shops is also Union shops.

BY THE COURT:

Q Well, what kind of garments are made by the outside shops? A All kinds of garments, but, as I said before, there are some manufacturers who are making their skirts inside, and they don't like to make inside the skirts, and they are giving out the skirts to outside contractors.

THE FOREMAN: That's what I want to know.

THE WITNESS: And I advised him at that time to go on the East Side to look for the outside shops, to look for skirts work.

BY THE COURT:

Q Well, the skirts are mostly made outside and the cloaks or coats are made inside? A Yes.

THE FOREMAN: They are virtually two different branches in that line. That's what I wanted to get at.

LOUIS SCHWARTZ, of 36-38 West 20th Street, a witness called on behalf of the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SCHLEIDER:

Q Now, you look like a man that can talk loud, and we

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haven't had a witness that would talk loud before. Now,

where is your place of business, Mr. Schwartz? A 36 West 20th.

Q City of New York? A Yes, sir.

Q Now, how long have you been in business? A About 14 years.

Q Are you still in business at the same address?

A Not all the time at the same address.

Q But you are now at the same address? A Yes.

Q Now, you know this man that I am pointing to (indicating the defendant)? A yes, sir.

Q What is his name? A Jackey Cohen.

Q Jacob Cohen? A Yes, sir.

Q He worked for you; did he? A Yes.

Q How many years? A Well, a little over four years.

Q Over four years? A Yes, sir.

Q Now, during the ---- during about three and a half of the four years that he worked for you, or three and three-quarters years, did you mainly manufacture skirts? A Yes, sir, all the time I made skirts, up to the last season.

Q Do you mean up to October, 1911? A Well, I started up on suits in August, 1911, to manufacture suits.

Q Now, how did Cohen separate himself from your shop? Did you discharge him or did he go away? A Well, while I made skirts alone, I had two rows in front of the place that

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worked all on skirts, on machines; and, when I started the manufacturing the suits and skirts, I had to take away half of the shop, and give it away to the cloak operators; and he happened to be on that side where I discharged nine or ten people, skirt people, that I needed the place for the cloak people. That's why he left the place.

Q Now, for about ten days before he was discharged, he didn't make full wages, did he, or did his work decrease?  
A Well, he made about the same as all. I don't remember if they made full wages or not.

Q And, as to Cohen being discharged or going away, you discharged nine or ten men because you needed the room where they were working? A Yes; I needed the room for the cloaks.

Q Now, during the three years and a half or four years this man was working for you, you had an opportunity to talk to him, and study him, and watch him, did you not, as one man would do another?

MR. HANLEY: I object to that.

THE COURT: Sustained.

BY MR. SCHLEIDER:

Q Did you, during the three or four years you knew about Cohen, talk /him? A Yes, sir.

Q Did you talk about him to other people that knew him and knew you? A Yes, sir.

Q And other people that worked in the same shop?

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A Sure I did.

Q And you know quite some people who know him; don't you? A Yes.

Q Well, what is Cohen's general reputation for being a peaceable man, an honest man and a truthful man; good or bad?

A I know him for a quiet boy; I know him, all the time, for a quiet boy.

Q Well, what is his general reputation? A A good, quiet boy, and never missed in the place in the morning, to be at work, in four years time.

Q And, to your knowledge, he never had anything to do with horse poisoning during the time he worked for you?

A No, sir.

CROSS EXAMINATION BY MR. MANLEY:

Q Of course, you don't know what has happened since he left your employ, do you, Mr. Schwartz? A No, sir.

Q How many men do you usually have in your employ?

A Well, in the season, about 75 or 80.

Q And you have only seen him as a workman, and you saw him come there in the morning, to work? A No, I handle them all myself.

Q And since the 1st of October, you don't know anything about him at all; do you? A No, sir.

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C F L I A C O H E N, a witness called on behalf of the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SCHLEIDER:

Q How old are you, Mrs. Cohen? A 22.

Q And you are the wife of Jacob Cohen? A Yes, sir.

Q How long have you been married? A A year, one year.

Q You have a child how old? A Four months.

Q Your mother has the child outside? A Yes, sir.

Q Now, how long did you know your husband before you married him? A About two years.

Q Two years? A Yes, sir.

Q Up to about October of last year did you live with him in rooms separate from your father and mother? A After we were married, I lived in rooms, yes.

Q And about October, when he stopped working, did you and he move to your father's and mother's rooms? A Yes.

Q In 92 Attorney Street? A Yes, 92.

Q During the year or so that he was married to you, he worked; did he? A Yes, he worked.

Q And he supported you? A Yes, he makes a nice living for me.

Q Now, you remember, after he stopped working for Schwartz, in October and November and December, in the morning, and the early part of January, the first five days of January, did he go out to the house and work from the house? A Yes, every

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day he went to look for work.

Q Every day? A Yes, sir.

Q What time in the afternoon did he come home; do you remember? A Three or four o'clock.

Q And about what time did you eat, in the evening?

A From six until seven.

Q Now, do you remember the week of January 5th? Now, try and fix that in your mind? A Yes.

Q Do you remember two days before he was arrested? A Yes.

Q It is said here by some witness that he was, between five and six, in the saloon 14 Ludlow Street. Was he home at that time? A Yes, he was home; he never goes in a saloon.

Q Nevermind about that. But was he home? A Yes.

Q Do you remember three or four days, or the week before he was arrested, that he was home in the afternoon, at three or four o'clock? A Yes, he was home.

Q Now, did he have --- do you know whether your husband when he stopped working, if he had a little money in Marcus's pocket? A Yes, he did.

Q How much did he have? A \$70.

Q And, from January to January, of course, he took that money out of his pocket? A Yes, he gave me to live.

Q I know that. Because you and your father and mother lived together, or you lived with them? A Yes.

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THE COURT: Permit this witness to testify. Do not lead her.

MR. SCHLEIDER: That's all.

MR. MANLEY: No questions.

MR. SCHLEIDER: We rest.

MR. MANLEY: We rest. And I think we could gain time by summing up on Monday morning.

THE COURT: Well, if it meets with the approval of the jury, I have no objection, but I would just as soon work here as upstairs in my chambers, and, if the jury prefer, we can finish the case now.

MR. SCHLEIDER: I would prefer to sum up now. I would only take half an hour.

MR. MANLEY: And I will take less than that, half that time.

THE COURT: But I shall not submit the case, tonight.

MR. SCHLEIDER: Then I should rather sum up on Monday.

THE COURT: Very well.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case to Monday, March 18th, 1912, at 10:30 o'clock).

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