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CASE #2391

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

-----X
THE PEOPLE OF THE STATE OF NEW YORK .

vs.

WILLIAM LAPPIN, impleaded with
WILLIAM AUSTIN.

Before:

HON. JAMES T. MALONE, J.,

and a jury.

-----X
2901

Indictment filed 28th of September, 1917.

Indicted for attempted grand larceny in the second degree.

New York, January 7, 1918.

APPEARANCES.

FOR THE PEOPLE: ASSISTANT DISTRICT ATTORNEY JAMES M. DONOHUE.

FOR THE DEFENDANT: MR. ROBERT M. MOORE.

Peter P. McLoughlin,
Official Stenographer.

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Mr. Donohue, Assistant District Attorney, opens the case on behalf of the people as follows:

As I told you when I examined you as jurors, gentlemen, the defendant in this case is indicted charged by the Grand Jury of this county with the crime of attempted grand larceny in the second degree, and that is the crime, gentlemen, which the People of the state of New York in this case will ask you for a conviction upon.

We say that this man is guilty of this crime and we say it because we are going to show you the following reasons which, of course, will necessitate my offering evidence.

The defendant in this case was a cleaner in the 149th precinct of the police department of the city of New York. The complaining witness was a police officer. An examination had just been held for the position of sergeant in the police department of the city of New York. The complaining witness had taken the examination along with four or five others who were in the precinct to which he was attached and to which the defendant was attached. The defendant, we claim, along with a man named William Austin, who was a former policeman, but who had been dismissed because he had been convicted of assault in this very court, and sent to the penitentiary for six months -- they got together and between the two of them they agreed to go out and sell what they called political influence or, in other

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words, they said they could through their connection with the Civil Service Commission put men on the list. They went to this complainant, Officer Nicolay, and told him that for two hundred dollars they could put him in the first one hundred men. Austin told him he was connected with a man named Murray, a Civil Service examiner, and a man named Moskowitz who was president of the Commission and through the use of their influence they could put Mr. Nicolay on the list for sergeant among the first one hundred for two hundred dollars down and four hundred dollars more. We will show you that the co-defendant Austin had a conversation with Lappin in which Lappin told him to go to these various people whose names he gave him and to tell him that he could put them on the list and we will show you the handwriting of the defendant, Lappin, on a list that he gave to the co-defendant Austin. Austin was told by the defendant Lappin to go to the houses of these various officers and tell them for two hundred dollars he would put them on the list. We will show that Austin did go to Nicolay's house and that he did receive two hundred dollars and that Mr. Lappin was waiting for him outside on the corner. Mr. Austin was arrested and he has pleaded guilty to the indictment. He will appear as a witness before you and tell his story. We will show you by various writings that were found in his possession and

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various writings which were taken from the defendant himself, and other evidence, that this defendant Lappin was working with Austin in order to get this money from these people through false pretenses. We will further show you that he had no connection whatsoever with the Civil Service Commission; no connection whatsoever with any of the examiners personally, politically or any other way and that he could do nothing at all for the complaining witness and that he took this money under false pretenses. We will show you also that Lappin visited the Tombs where Austin was confined during the time that he was awaiting trial and asked him not to talk about this case, that he was going to help him out, that he was going to get him bail. We will show you that Lappin went to various other witnesses in this case and asked them not to testify against him. As I said before the witnesses in this case are the ones upon whose word you will convict this defendant and not upon any statement of mine. I ask you to listen to the witnesses.

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

DIRECT EXAMINATION BY MR. DONOHUE:

Q Where do you live? A 14 Morton street.

Q You were jointly indicted with the defendant, William Lappin, for the crime of attempted grand larceny in the second

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degree, were you not? A Yes, sir, I was.

Q Did you plead guilty to that offense? A I did.

Q Are you now awaiting sentence? A Yes, sir, I am.

Q Where are you confined now? A In the Tombs.

Q How long have you been there? A Since the last week in August.

Q Mr. Austin, what is your business? A Longshoreman.

Q What were you doing before you were arrested, as a means of livelihood? A Longshoreman.

Q Previous to your being a longshoreman what was your business? A patrolman.

Q Of the police department of the city of New York? A Yes.

Q Were you in January, 1915, convicted of assault in the second degree in the Court of General Sessions, or third degree? A I believe that was in February I was convicted. I was arrested on January 1st, 1915, and convicted in February of 1915 for assault.

Q Of what? A Third degree.

Q You served six months in the penitentiary? A Yes.

Q How long were you a member of the police department of the city of New York? A A little over four years.

Q Now, Austin, how long do you know the defendant, William Lappin? A About the second week of August.

Q Tell us how you became acquainted with him, under what circumstances? A Well, I went with his brother, or half brother, Thomas Greene, to No. 42nd street and 8th avenue, a place known as Kelly's Cafe. I was there-- I went up there to see

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Richard Butler, me and Lappin's brother there, I was in conversation with Mr. Butler and Mr. Greene -- I am not positive that Charlie Robinson was there, I know some other party was there with me, and I and Mr. Greene were there for awhile and Mr. Lappin came over and talked to me.

Q Before you had talked with Lappin that night had you talked to Greene, yes or no? A I talked to Mr. Greene.

Q Who is Mr. Greene? A He is Mr. Lappin's half brother.

Q Did you tell Mr. Lappin at that time that you had spoken to Mr. Greene?

MR. MOORE: I object to that. I think he gave that conversation.

Q Tell us the conversation you had with Lappin at that time? A Mr. Lappin came to me and said "You are an ex patrolman. I said yes. He said "Did you ever think of trying to get back". I said, "I would like to but I don't know how to get back", and he says, "I have got friends on the Civil Service, I know the commission, the people, they probably would let him know and he would give me the information later on. He asked me what I was dismissed for and I told him for assault. He asked me how long I was in the department and I told him close on to four years and a few months.

Q What other talk did you have with him that night? A I had no other talk with him.

Q Did you have any talk about lists at that time? A Not

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with Mr. Lappin, no, sir.

Q Now when was the next time you met Mr. Lappin? A I met Mr. Lappin the next time on 9th avenue and 29th street.

Q Who was with you then? A Greene.

Q Did you have any talk with Mr. Lappin at that time?

A Mr. Lappin was there telling his half brother about the work he had been doing in regard to taking witnesses home from pier 67 North River, that he was a witness in a case of a crime committed in Harlem, an ex patrolman.

Q What other talk did you have with him outside of that, anywhere else? A Not that I can remember.

Q Now, when was the next time you saw Lappin after that?

A The next time with Mr. Lappin was on Monday evening at 30th street and 9th avenue.

Q Was Mr. Greene there at that time? A No, sir, he was not.

Q Had you seen Greene between these various times you saw the defendant? A I did.

Q Did you have any talk with Lappin this particular night that you met him? A I did.

Q Tell what he said? A That particular night our local 866, Longshoremen, met. I went up to Greene's house and waited for Greene to come from work and when Greene came up he said my brother Bill wants to see you down in the cafe.

MR. MOORE: I object to that.

THE COURT: Strike it out.

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Q Go ahead and tell us what you said to Lappin? A I seen Lappin in the cafe and he said "Did Tom give you those slips"? A I said, yes. He said, "did Tom give you those slips." I said yes. He said, "when are you going to start work on them." I said, "my intention was going out the following day". I gave the slips to Mr. Lappin and he read them over and told me which one to go to first.

Q Will you tell us what was on those slips you showed to Mr. Lappin that Greene had given you before that?

Objected to; objection sustained.

Q Did you and Mr. Lappin have any talk about those slips?

A We did.

Q After you showed them to him what did he say? A I readed them to him to make sure we were right.

Objected to; objection sustained.

Q Will you tell us what he read to you? (No answer.)

Q What happened to those slips do you know? A The slips I handed to Lappin on the day of my arrest.

Q You handed them to whom? A Lappin.

Q Have you seen them since? A No, sir, only once.

Q Which one have you seen? A The pink one.

(The pink slip then referred to is marked People's Exhibit 1 for identification.)

Q I show you People's Exhibit 1 for identification, and I ask you whether or not that is the slip you refer to? A Yes, sir, that is the slip I referred to.

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Q The other slips you had spoken about to Lappin on that night you turned over to him and haven,t seen since? A No, sir, I haven,t seen them since.

Q Will you tell us now what Mr. Lappin read to you from those slips? A On those slips -- on the first of those slips was a man by the name of John H. Fallon. We read that off to me and told me to explain to Mr. Fallon that it would cost him one hundred dollars, the first payment, on being put on the list and it would cost him an additional one hundred and the reason it was so cheap to him was because he was so long in the service; that he would have to make application before this time to give somebody else a chance to be made a sergeant.

Q Did you have any talk with Lappin before this about the sergeant's examination, before this particular conversation you are giving us now? A I did.

Q Tell us when that was? A That was on that Monday night

Q Tell us what he said and what you said? A He told me if I went to work on this there was fifty dollars in it for me, fifty for him and the remaining money was to be turned over to the people overhead.

Q What did he say he wanted you to do? A He wanted me to go and visit these various policemen.

Q What were you supposed to say to them? A I was supposed to explain --

Q Did he tell you? A Yes, sir.

Q Tell us what he told you to say to these people? A He

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told me to tell them I was sent to them from a party to explain about the sergeants list, which I done.

Q What did you tell them? A I would first show them the slip and show them their names, the time they were born, the date they made the police department, appointed, and their previous occupation.

Q Where did you get this information from? A From Mr. Lappin.

Q How did he give it to you? A On these here papers, he explained to me about these papers.

Q Tell us what he said for you to say to these various people? A When I seen this man, Mr. Fallon then I showed him this, I showed him a slip of paper and , in fact, I was to show the slips of paper to him, but it happened when I got there Mr. Fallon was away on his vacation, and I seen Mr. Fallon's sister, and I said to Miss Fallon--

Q I want you to tell us just what the defendant told you to say to these people when you went to visit them? A Explain to them about the sergeant's list.

Q Give us his words as near as you recall? A That it would cost them two hundred dollars to put them within the first one hundred and three hundred dollars on the day of appointment.

Q The first one hundred what? A On the list.

Q What list? A The police sergeant's list.

Q Who told you to say that? A Mr. Lappin.

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Q Did you go to see these various people? A I did.

Q Tell us the first one you went to? A Mr. Fallon, but Mr. Fallon was not at home. Miss Fallon was there.

Q Who was the second one?

THE COURT: Is it necessary to go into this?

Why not come right to the question at issue.

BY MR. DONOHUE:

Q Did he give you any other names besides Fallon? A He did.

Q Did he give you the name of Nicolay? A Yes, sir, he did.

Q Will you tell us what he told you to say to Nicolay?
A He told me to go up to see him--

Q When was that? A About the 3rd.

Q About when was it? A About Thursday.

Q August or September or when? A In August.

Q Tell us what he said to you? A I met Mr. Lappin at 4 p.m. at Borough Hall, and he said to me "Did you go to see Mr. Nicolay yet?" I said "I did not." He says "You want to go to see that man, that man has been sick, he is waiting for somebody to call upon him", and I said, "I didn't go to see him." He says "Wait for a few minutes until we get Mr. Rourke-- he was out on patrol. Rourke came along and Mr. Lappin said "Here now the way you can tell Mr. Rourke is I will wave my hat." "I seen Mr. Rourke and I stopped and had a conversation and I came back from there.

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Q Will you tell us Mr. Austin, what Mr. Lappin told you to say to Mr. Nicolay? A He told me to go and see Mr. Nicolay and get two hundred dollars off him when his name appeared in the first hundred on the list.

Q When was that? A That was about the third day of my work with him, I believe on a Thursday in August.

Q About what part of August? A About the third week in August.

Q Tell what happened after you had seen Mr. Nicolay? A I didn't see Mr. Nicolay, I seen Mr. Rourke at the end of my day's work, the following day, I had an appointment with Lappin again at Borough Hall. I met him at 4 o'clock, and he says, "Whom did you go to see, anybody". I said, "I went up to Mr. Stain's house last night 119th street but in fact when I told him that I wasn't Stain's house at all. He says, were you at Nicolay's house. I said, No, I was not, and he says, "No, you did not, Mr. Nicolay has moved."

Q Where were you standing at that time? A At the corner of Myrtle avenue and Washington street.

Q Do you know what station house Mr. Nicolay was in at that time? A The Adams street station house.

Q How far was that from where you were standing? A About a block and a half.

Q Is that the station house that Lappin was attached to? A Before that he had been; he was attached to it.

Q After you had this talk with Lappin what did he do?

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A He left me right away and went towards the station house and came back with the address of 48th street.

Q When he came back did he say where the officer lived?

A 48th.

Q Gave you the address? A I think 103 it was, I don't remember.

Q Did you put it on this people's Exhibit, I ask you whether you put it on there? A Yes, sir, that is my marked 103 We 48th street.

Q Did you ever see that paper before? A Yes, sir.

Q When was the first time you saw it? A The first time I saw that paper was I received it off Tom Greene.

MR. MOORE: I object to that and move to strike it out. He said he received it from Greene. He did not receive it from the defendant.

THE COURT: It is plain that he did not.

Q After you received the paper from Greene did you have any talk with Lappin about it? A I did.

Q Tell the jury what you did about this particular paper?

A This particular paper -- I had a talk with Mr. Lappin and I said to him "Why is it you have there six hundred dollars", and he said they have reconsidered that price and made it five hundred, two hundred dollars if highest in the first, and three hundred the day of the appointment to the police department.

Q Did you have any talk with him about what to do with the paper? A I was to show this to Nicolay on seeing him.

Q Did he tell you? A Yes, sir, Mr. Lappin, to show him

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that it was in good faith.

Q Did you afterwards go to 103 West 48th street? A I did.

Q Did you find Nicolay there? A I did.

Q Did you have a talk with him? A Yes, sir.

Q Tell the Court and jury what talk you had with Nicolay at 103 West 48th street. A I called on Mr. Nicolay about 2 p. m. I went up to his room and sat down, he closed the door and we had a conversation regarding that particular slip of paper, the sergeant's examination.

Q Tell us just what you said to Nicolay and what he said to you? A I told Mr. Nicolay, I said, "I am sent to you in regard to the two hundred dollars. I said, "Is that your name in the first one hundred on the list", and he said "yes". He said, "Bill no, this is a little quiet between you and I. I said "all right. He said "Is this real goods", I said "so far as I know it is." I said, "Mr. Nicolay" I says, "the best I am getting out of this is fifty dollars, and the rest I am turning over" "and if this here is not true I will refund you my fifty dollars and I will do my utmost to get back the rest of the money. Nicolay says to me now" he says "Remember if it takes me one year or two or three years -- what I will do to you if you do not deliver this job." I says, "I will do everything in my power that I can. I am working with another man", and he says, "Mr. Nicolay says something to me, I believe, I am not sure about it.

Q Where was Lappin during all this time if you know? A Mr.

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Lappin was to be on the corner of 48th street and Broadway.

MR. MOORE: I object to that.

THE COURT: Strike it out.

Q How do you know where he would be? A Yes, sir, he told me he would be at 48th street and Broadway.

Q Where was Nicolay's house? A We was in 48th street near 6th avenue.

Q Before you went in with this pink paper tell us what particular writings there is on it now that was not on it at that time? A The J. and M up here and some lead pencil marks up there and this W. and R.

Q Was the writing in ink on there? A Yes, sir; it was on; all this down here (indicating).

Q Was it in the same condition when you spoke to Lappin about it? A It was.

Q Did you and Mr. Lappin have any talk about this paper? A I asked Lappin "Where did you get the information in regard of this man, when he was appointed and has his occupation and he said he received off the people whom he was working for.

Q He told you he received that information from the people he was working for? A Yes, sir.

Q Now, after you had gone in to see Nicolay what else happened. You had a talk about something or other? A I mentioned to Nicolay what Mr. Lappin had told me to mention to him about Mr. Moskowitz, what a cheap man he was. Mr. Nicolay says to me-- I said to Nicolay "To show you I am acting in good

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faith I will leave my home address" which I did. I says "I have been an ex patrolman myself" and I further said "if it wasn't a job that would be lived up to I would return my money.

Q Did you tell him that? A Yes, sir.

Q There was some money passed? A Yes, sir. I received two hundred dollars off Mr. Nicolay.

Q In other words you were arrested afterwards? A Yes, sir.

Q Afterwards you were arrested? A Yes, sir.

Q Where were you arrested? A Corner of 48th street and 6th avenue.

Q Do you know who arrested you? A I do.

Q Who? A Sergeant Valentine, Sergeant McGrath and Inspector Castigan and some other patrolman, I don't know his name.

Q What happened to the two hundred dollars? A Sergeant Valentine took it from me.

Q Took it out of your pocket? A Yes, sir.

Q You were afterwards brought to police headquarters?
A I was.

Q And from there to the Tombs? A Yes, sir, from there to the 53rd street court.

Q And subsequently to the Tombs? A Yes, sir.

Q You were afterwards brought to police headquarters?
A I was.

Q And from there to the Tombs? A Yes, sir, from there to the 53rd street court.

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Q And subsequently to the Tombs? A Yes, sir.

Q While at the Tombs did Mr. Lappin go into see you?

A Yes, sir, he did.

Q How many times? A About five times in all.

Q While he was there did you and he have talks about various notes you had received? A yes, sir, we did.

Three papers are marked for identification people's Exhibit 2, 3 and 4.

Q While you were in the Tombs, Mr. Austin, did you receive people's Exhibits 2, 3 and 4 for identification? A I did.

Q When Mr. Lappin visited you in the Tombs did you have those papers with you? A I did.

Q Did you have any talk with Mr. Lappin about these papers? A I did.

Q Tell us what talk you had about People's Exhibits 2, 3 and 4 for identification? A

THE COURT: Have these papers a bearing on this case?

MR. DONOHUE: Yes, sir, upon this case.

A On Exhibit No. 2 I and and Mr. Lappin had a conversation in regard to what the union was going to do for me; he told me they were going to try to get a little benefit up for me.

Q Now, Mr. Austin, did Mr. Lappin tell you whether or not to write these particular notes? A He told me, himself, that he wrote them and sent them into me about five p. m. in the even-

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Q Had you, before his visit in which you discussed these papers, talked with an assistant district attorney who had charge of the case at that time? A I had.

Q You had already at that time expressed a desire to plead guilty? A Yes, sir, I did.

MR. MOORE: I object to that.

THE COURT: Strike it out.

Q Did he say whether or not he actually wrote these papers himself? A He told me he wrote them himself.

Q How did that happen. Tell what he said and what you said about them? A I was taken down to see Lappin in the counsel room in the Tombs and I had one slip of paper with me and I asked him "Did you write that note", and he said "yes". I asked him what he was doing for me and he told me he was doing the best he could do for me. We came in again to see me in the counsel room in the Tombs, and I also asked him again did he send that note in and he said "Yes, I did."

MR. MOORE: I object to that. He should designate which one he refers to.

MR. DONOHUE: The exhibit he has talked about is Exhibit 2.

THE WITNESS: The next one was on the benefit and where he was, and that everything will be fixed up all right this week.

Q What is the number of that exhibit? A 4. The other one was where he asked me was I over to the District Attorney's

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office, and I told him I was.

MR. DONOHUE: I offer these papers in evidence, if your Honor please, for the purpose of using them as standards in writing, -- not for their contents at all.

MR. MOORE: Well, the question has occurred to me, your Honor, whether there should not be something more to make these standards of comparison. We have the statement of an accomplice. I object to them on that ground.

THE COURT: Objection sustained.

MR. DONOHUE: I cannot offer it all at once.

BY MR. DONOHUE:

Q Mr. Austin, did you have a talk with the defendant about these notes? A Yes, sir.

Q People's Exhibits 2, 3 and 4 for identification? A Yes, sir.

Q He told you he wrote them? A Yes, sir, he did.

Q Did you have any talk with him -- you did have a talk with him, you say about people's Exhibit 1 for identification? A Yes, sir, I did.

Q You went over the writing that was on it at that time? A Yes, sir, I did.

Q Was that paper found in your possession when you were arrested? A Yes, sir. It was.

Q Who took it from your possession? A Sergeant Valentine.

MR. DONOHUE: I offer it in evidence.

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MR. MOORE: I object to it upon the ground that no proper foundation has been laid for the reception of the evidence.

Objection sustained.

CROSS EXAMINATION BY MR. MOORE:

Q I understood you to say that you met the defendant about the second week in August? A About.

Q Wasn't it the third instead of the second? A About the third week in August.

Q Which was it about the third or the second? A About the third week in August.

Q What week in August were you actually arrested in? A I was arrested on the 28th or 29th of August.

Q The 29th wasn't it. It is conceded to be on the 29th wasn't it Mr. Dobohue?

MR. DONOHUE: Yes.

BY MR. MOORE:

Q The arrest assuming it was on the 29th -- how long had you known the defendant before the day of your arrest? A About three or four days before.

Q Do you understand me now. You had known at the time of your arrest the defendant only for three or four days? A At the time of my arrest I had known the defendant about ten days.

Q You had known him for less than a week at the time of the arrest? A More than a week.

Q Between a week and ten days? A About that.

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Q Now the first time you say you met him accidentally, did you not? A I did.

Q You were going to a certain place in the city of New York, on that day? A What was that?

Q To a cafe-- for the purpose of meeting whom? A Mr. Thomas Greene. Mr. Greene asked me to go up there to see Mr. Butler.

Q You went there for the purpose of seeing Mr. Butler? A Yes, sir.

Q You had known Mr. Butler for some time? A About a year.

Q Is that the Butler who is known as Dick Butler? A Yes, sir, it is.

Q Is he the same Dick Butler that pleaded guilty to spiriting Harry Thaw away from Matteawan Insane Asylum? A I do not know; I do not know.

Q You don't hardly mean that, do you? A I do.

Q How long have you known Dick Butler? A About a year.

Q Didn't you know him when you were on the police force? A No, sir.

Q How well did you know Dick Butler? A How well?

Q Knew him intimately, didn't you? A Yes, sir, I did.

Q He called to see you at the Tombs, after you were arrested, didn't he? A No, sir.

Q Did you meet Butler shortly before this day when you met him in the cafe? A Probably the day before.

Q Where did you meet him on the day before? A Well, I

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and Mr. Butler--

Q I don't care-- where did you meet him? A At 42nd street and 8th avenue.

Q The same place? A Yes, sir.

Q Did you meet him the day before that? Q I did.

Q Whereabouts did you meet Mr. Butler the day before that?

A I just can't remember, probably it was in Considine's 42nd and Broadway.

Q That was the same place? A No, sir.

Q In that immediate neighborhood? A Yes, sir.

Q You had been meeting Dick Butler almost daily for a week before you accidentally met Lappin? A For about a week.

Q Daily for about a week? (No answer.)

Q Of course you knew him intimately before you met him on these various visits? A I did.

Q Dick Butler is very well known to the police officials of the city, is he not? A That I do not know.

Q Do you know whether he has a large circle of acquaintances among the patrolman of the city of New York? A I do not know.

MR. DONOHUE: I object to that.

THE COURT: Objection overruled.

Q That time when you saw Lappin you had a talk about the possibility, you say, of being reinstated in the police department through the Mr. Lappin.

Q On that occasion, wasn't it? A That night.

Q Did you plead guilty in General Sessions when you were

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convicted, was it on a plea of guilty or was it after a trial?

A After a trial. The jury brought in a verdict.

Q Now, when was the next time you saw Lappin? A The next time I saw Lappin was the following night, at 29th street and 9th avenue.

Q That was not the night when you got the slip, was it, when you saw him the next night at 29th street and 9th avenue, was that the night you got the slip? A I got the slip that Mr. Lappin had left; I received the slip of Mr. Greene.

Q I asked you whether that was the night that you got the slip? A Yes, sir.

Q Lappin was not present when you got this slip? A No, sir; not at that time.

Q Did you have any talk with Lappin that night? A I did.

Q About police officers? A No, sir.

Q About putting sergeants on the list? A No, sir, not that night.

Q Now was this a Monday night? A Why this was on a Tuesday night I am talking about now.

Q What day in the week were you arrested? A On Tuesday or Wednesday, I don't just remember.

Q What is that? A Tuesday or Wednesday-- Tuesday, I don't just remember, I believe it was August 29th.

Q Of the same week? A No, sir.

Q Weren't you arrested the same week that you had this talk with Lappin at 9th avenue and 29th street? A No, sir.

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Q How many days intervened between the time that you had the talk with Lappin on 9th avenue and 29th street and your arrest? A Seven days.

Q After you saw Lappin this second time, when was the next time that you saw Lappin? A The next time I seen Mr. Lappin was on Monday evening at 30th street and 9th avenue.

Q Was that the Monday preceding your arrest? A It was.

Q It was, was it not? A Yes, sir.

Q How many times did you see Nicolay before you were arrested? A Once.

Q What day was that with reference to the day of your arrest? A That was on Tuesday, I believe the day before my arrest; I seen Nicolay on the day of my arrest.

Q On the day that you saw him first -- was that the first time that you had ever seen Nicolay to know him? A The first time I ever seen him.

Q Where did you see him that day? A The day before my arrest I seen him on Flatbusg avenue -- or Flushing avenue, I don't know which-- Flatbush avenue and I don't know the cross street, in Brooklyn.

Q Over in Brooklyn? A Yes, sir.

Q About what time in the day was it when you saw Nicolay that day? A A little after 5 p. m.

Q What is that? A A little after 5. p.m.

Q Had you seen the defendant on that day? A Mr. Lappin? I was with Mr. Lappin.

Q When did you first meet Mr. Lappin that day? A At 4

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p.m. or a little after.

Q Where? A At Borough Hall.

Q Now, a little after 4 would be indefinite, 4 or a little after? A About a quarter past four.

Q You gave testimony on the former action of this trial?

A Yes, sir, I did.

Q On the other trial you said it was four o'clock, didn't you? A About four.

Q You said now it might have been a quarter after four?

A I still say about a quarter past four.

Q At any rate this was the day before your arrest?

A Yes, sir, this was the day before my arrest.

Q Had you seen Butler on the day before your arrest?

A No, sir.

Q Did you see Butler on the Saturday night preceding your arrest? A No, sir.

Q At what time did you see Nicolay on the day of your arrest? A About 2 p. m.

Q Where did you see him then? A In his room, 103 West 48th street.

Q New York City? A Yes, sir.

Q Where was Lappin at that time, if you know? A I asked him to be at the corner.

Q I don't ask you that. I ask you if you know where he was

A No, sir, I do not.

Q Now, was it on the first or second conversation that

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you told him you would give him your name and would return your fifty dollars and do the best you could to get the rest back if you didn't make a sergeant of him? A On the second, the day of my arrest.

Q Was that after you had the conversation detailed here that it would cost him two hundred dollars as an initial fee and the balance to be paid when his name appeared in the first one hundred? A That is what I told Nicolay in his room.

Q You told him that before you gave him your name and address? A yes, sir, I did.

Q Can you tell the jury then how it was that he happened to call you Bill before that? A I cannot.

Q He did call you Bill before that, didn't he? A Yes, sir he did.

Q Then he knew you? A I wouldn't say that.

Q Bill is your name? A William is my name.

Q Now, though he mentioned your name Nicolay didn't know you at that time? A Mr. Nicolay has never seen me before in his life.

Q You never saw him? A No, sir, never saw him.

Q You have no way of telling the jury how he called you Bill before you gave him your name and address? A No, sir, I have not unless he called me that as a matter of courtesy just like you would call anybody "Hello Jack or John".

Q You have no way of explaining then how he happened to hit upon your right name? A No, sir; I have not.

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Q Not calling you hello Jack or John? A No, sir, I have not.

Q Are you quite certain that that conversation that you have narrated took place in which he said "Now, Bill if you dont do this, if it take two or three years I will make you get the money back" or words to that effect? A I do not remember, saying that Mr. Nicolay said at that time "Bill" in regard to that conversation.

Q At the time he used that confidential expression "Now, Bill &c."-- A In regard of what.

Q This money transaction? A That is what I am trying to explain to you. At that time I didn,t know yet whether Mr. Nicolay had used the name Bill when I was telling him about I would return the fifty dollars; I am sure that he did not.

Q What did you tell the jury on the direct examination that he did then? A I do not remember that he mentioned the word Bill.

Q Don,t you remember saying on the direct examination just what I have said to you, "Now Bill". A You mean after I had given him my name.

Q You in the direct examination said he called you Bill and after that you gave him your name? A That is after I gave him my name. He says, "Now Bill", he says to me "now, Bill it is up to you in regard to me refunding the fifty dolla's. My name was not mentioned as Bill or anything because he didn't know

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my name until after.

Q When I first asked you you said you did not know how he happened to use the expression Bill unless he used it as a matter of courtesy or some other nickname or any friendly name?

A Yes, sir.

Q Was it after you told him the name or was it before he called you Bill? A I just don't remember.

Q You just don't remember what conversation you had with him? A Yes, sir, I do remember all the conversation I had with Mr. Nicolay.

RE DIRECT EXAMINATION BY MR. DONOHUE:

Q Was Officer Nicolay in uniform at the time that you saw him? A Yes, sir.

Q Lappin was with you then, wasn't he? A Yes, sir, he was.

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

(The witness states he is attached to the 149th Precinct.)

DIRECT EXAMINATION BY MR. DONOHUE:

Q Mr. Nicolay, you were, in the month of August, a patrolman of the police department of the city of New York? A Yes.

Q Were you? A yes, sir.

Q Had you taken the examination for sergeant of the police department of the city of New York? A Yes, sir.

Q When? A The 26th day of May, 1917.

Q Do you know the defendant, Mr. William Lappin? A I do.

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Q How long do you know him and as what? A I know him as the caretaker in the 149th precinct station house where I am attached.

Q Did you have a talk with him in the month of August of last year? A I did.

Q 1917? A Yes, sir.

Q Was he a cleaner in the month of August in that station house? A Yes, sir, he was.

Q Did you have any talk with him in reference to the sergeant's examination? A Yes, sir.

Q Now, will you kindly tell us what he said and what you said to him? A On one occasion when I came to the station house at 4 o'clock, the defendant spoke to me and he said, "Nick, there was a man here to see you". I said to him, "Who is he". He said, "I don't know". The desk officer did not tell me there was anybody there to see me.

THE COURT: You told him that?

A No, sir.

THE COURT: Strike that out.

BY MR. DONOHUE:

Q Tell us what you said to him and he to you? A The next day the defendant spoke to me again, at 4 o'clock, and he said "That fellow was here to see you again Nic." and I said, "Yes, who is he". He says, "I don't know, he came from downtown, he is a fixer." I said, "What fixer". And he says, "for the examination for sergeant, from the Civil Service." I said to him

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"How do you know", and he says, "I know". "Well; I says, "why don't you send him over to me on post. You know where my post is". I was on Fulton street between Rockwell Place and Han-over place," and he says "all right."

Q After that did Austin meet you on your post? A Yes, sir

Q You are sure it was Austin who was over there? A Yes, sir

Q Is that the man (pointing to the witness Austin) A Yes.

Q Was that before or after you had this talk with Lappin about the man coming to see you? A That was after.

Q How soon after? A Well, perhaps ten days, perhaps two weeks, approximately.

Q When you spoke to Lappin about this or when he spoke to you about this man coming to see you did he say whether or not he knew who this man was? A I don't understand the question.

Q Did he say whether or not he knew who this man was who came to see you? A Why he told me, Lappin-- I had stated that he told me that he knew the man was from the Civil Service and was a fixer.

Q Did he tell you what his name was? A No, sir.

Q Where was the first time you saw Austin, Mr. Nicolay?

A On August 28th. on Fulton street and the Flatbush avenue extension, Brooklyn.

Q In uniform at that time? A Yes, sir, I was.

(Another paper is marked People's Exhibit 5 for identification.)

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Q I ask you to look at People's Exhibit 5 for identification, Mr. Nicolay, and tell me whether or not you ever saw that before? A yes, sir.

Q Where did you see that? A I found that in the rack in the station house, the main office of the police station, 149th street precinct.

Q Was that before or after you met Austin? A It was before.

Q How much before? A Well, that was perhaps a few months before, yes, sir, nearly two months.

Q Will you just tell us what talk or conversation Mr Austin had with you on the street the first time you met him and when was it? A August 28th. Austin came to me and said, "Hello Nicolay". I says, "Hello, who are you." He said, "I am from downtown." I says, "What do you mean". He says "I come from the Civil Service. Another man saw you before, but I came in his place. I am sent in his place." I says, "Well, this is not the place to talk that matter over. Come over with me." I walked with Austin to Hanover Place, in the middle of the block, between Livingston and Fulton street, and then Austin said to me-- "Now, " he said, "they first wanted six hundred dollars, to put you within the first two hundred for sergeant, but they have changed it." I says. "This is not the place to talk that over, I want to make a date with you. Can you see me tomorrow?" He said, "Yes." "Well," I said, "come at two o'clock tomorrow afternoon to my house 143 West 48th street, Manhattan. " He

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said "All right, I will be there", and he left.

Q Where were you living Mr. Nicolay, during the month of August, 1917? A 103 West 48th street, city and county of New York.

Q How long have you lived there? A Since June last.

Q Where did you live before that? A 219 West 22nd street Manhattan.

Q Now, did you afterwards meet Mr. Austin at your house?
A Yes, sir, August 29th.

Q 103 West 48th street? A Yes, sir.

Q Tell us what he said then to you, and you to him? A Shortly before two o'clock Austin came in. Somebody rang the bell. I went downstairs, and I says, "Come up Bill", and brought Austin to my room and he started to talk, and I says "Wait amminute now", I says, "it is too confidential a matter to talk this way", and I shut down the window and pushed the door, holding the knob so that the door would not get locked. I put the chain on the door to leave him under the influence that we were safe, this way the door could be pushed ajar about nearly one foot. I sat on a truck and Mr. Austin was sitting on a chair just facing the door and he started to talk about the examination and pulled out this pink paper out of his pocket.

Q I show you people's Exhibit 1 for identification and ask you whether or not you recognize that? A Yes, sir.

Q He pulled it out of his pocket? A Yes, sir.

Q What happened after that? A He said, "Now", he said,

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"I have told you yesterday they changed the price. They first wanted six hundred dollars to put you within the first two hundred on the list, but now the price is five hundred dollars to put you within the first hundred on the list, two hundred dollars to be paid now and three hundred dollars four days before your promotion to the rank of sergeant." Well, I said "That's all well and good, but what guarantee have you got to give me that I will be there", and he said, "I will tell you what I will do. "I get fifty dollars commission for collecting this money, and if you ain't there I will give you my fifty dollars that I get as collector, and I will go to the front to get the balance of one hundred and fifty dollars and give it back to you." I said to him, "In case I pay two hundred dollars now and that my name is not in the first one hundred on the list and I refuse to pay the three hundred what will happen then". "Why", he said, "I don't know exactly but I think they will find some way of trying to get your name off the list". I said, "Can't you identify yourself". I said, "If you give me a specific identification I will give you the money." "Well", he says, "I am going to tell you my name, my right name is William Austin", and he wrote it on a piece of paper "I am a dismissed policeman. I was dismissed about two years ago", I think he said "for assault"-he was convicted of assault in the third degree and sent to the penitentiary "this is my name and this is my address and if you want to find out who I am you know a sergeant named Otto Nikly." I said I did. He says "He is a friend of yours", and

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I said "he is". Well, he says "Speak to him about me and find out who I am. " I said, "Do you think I will get a good recommendation from Otto" and he said, "You surely will." "Well", I says "Bill, as long as you mention Otto's name, he is a good friend of mine, I am going to give you the money". I gave him two hundred dollars, to Austin, a one hundred dollar bill and ten ten dollar dollar bills and then we walked out.

Q Who had given you that money? A Lieutenant Valentine, then sergeant.

Q Where did he give it to you? A He gave it to me right in my room about fifteen or twenty minutes before Austin came.

Q Did you turn it over to Austin? A yes, sir, I gave the money to Austin, he counted it and said "Its all right", and I said, "Now, we will go and have a drink, Bill". I walked down with Austin.

Q He was arrested? A Yes, sir, he was arrested at 6th avenue and 48th street.

Q Did you see him searched by Valentine? A Yes, sir, Valentine took out the money where he had placed it in my room.

Q What else did he take from him? A He took out several papers including that pink paper.

Q That pink paper he took away from him? A yes, sir.

Q What happened after that. Was Austin brought to police headquarters, to court and to the Tombs? A Yes, sir.

CROSS EXAMINATION BY MR. MOORE:

Q Now, Officer, by looking at this letter is there any-

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thing on it that will refresh your recollection as to the date when you received it? A The date is July 2nd, 1917.

Q It was on or about July 2nd, that you received it?

A Yes, sir.

Q Now between the 2nd day of July, 1917 and the day when you met Austin, did you see any other person with reference to your promotion or did any other person call to see you in reference to it? A Yes, sir.

Q About how long after you received this letter did some person see you? A Well, about perhaps two weeks; I don't recollect exactly, counsel.

Q It was not Austin? A No, sir.

Q Do you know who that man was? A I think I do by name.

Q When next did any person call to see you after that party called? A Austin on the 28th of August, 1917.

Q Now, when Austin called to see you on the 28th of August, 1917, he stated to you, did he not, that another man had already seen you with reference to it? A Yes, sir.

Q And that he was acting in this other man's stead, did he not? A Yes, sir.

Q You knew at that time the defendant very well, did you not? A I did.

Q You and the defendant were both connected with the same precinct were you not? A Yes, sir.

Q What is that precinct? A The 149th.

Q How long had Lappin been connected with that precinct?

A perhaps a year.

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Q You saw him almost daily, did you not? A Right.

Q At this time that Austin talked with you either on the 28th or 29th he mentioned a sergeant, did he not? A Yes, sir.

Q What was that sergeant's name? A Otto Nikly.

Q He didn't mention Lappin as a man that would vouch for him, did he? A The other man?

Q Austin? A No, sir.

Q He didn't mention Lappin's name in any way, did he?

A No, sir.

Q Now, when Lappin after that told you sometime between the 2nd of July and the 28th of August, about a man calling to see you at the station house, -did he? A Yes, sir.

Q This was about how long after you received the letter of July 2nd? A Why that was between the time that that first man that you mentioned came to see me and Austin.

Q Then it was after both the receipt of the letter and the visit by the other man? A The first man to see me about the examination--

Q I don't care what he told you. I move to strike that out.

THE COURT: Strike it out.

Q Now, at the time that this defendant spoke to you when you came into the station house, upon the first occasion as you have testified, what he said then was "Nicolay, there was a man here to see you", wasn't it? A Yes, sir, something substantially that.

Q You said "Is that so, who was he", and didn't he say,

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"I don't know, but he said he would be back again"? A He may have said that.

Q Isn't that your best recollection, that is just what happened on that occasion, that is the first time he said, "I don't know", but he said he would be back again? A Yes, sir, that is about it, I think that is about what took place on the first time.

Q Well, upon the second time when he came back he said to you then, "I think he is from downtown", didn't he, upon the second occasion? A Yes, sir, and I said to him, --

Q Upon the first occasion he said he didn't know who he was, but the man said he would be back again, and the next afternoon on he told you the man had been back but he did not know who he was, but he thought he was from downtown? A He said that he--

Q Did he say that? A Yes, sir.

Q That is, he addressed you this way "That man was here again to see you, Nicolay", isn't that it in substance, did he say that? A Yes, sir.

Q And you asked him again "Who is he", and he said, "I don't know, I think he is from downtown", did he say that? A Yes sir; that is part of what he said.

Q When he said "I think he is from downtown" he winked his eye A I said, "How do you know".

Q Wait just a minute. When he said "I think he is from downtown he winked his eye", is that the time he said that?

A Yes, sir.

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Q When he said I think he is from downtown he winked his eye? A Yes, sir.

Q And you said to him "What do you mean?" And his reply was "from the Civil Service, one of them fixers"? A Yes, sir.

Q Well, Mr. Nicolay, there were a good many of them fixers around about that time, weren't there in the city of New York? A I don't know anything about that.

Q You know of several being arrested, don't you? A Mr. Lappin and Austin, I know was arrested.

Q Don't you know of others being arrested for fixing? A No, sir.

Q Don't you know that some ran away because they hadn't got the money back? A No, sir, I do not.

Q Hadn't heard anything about that? A No, sir, I did not.

Q Did you hear anything about any stop in the fixing by losing the papers that you used in the examination on the way down to Staten Island? A I read about papers being lost, not in the sergeants examination, in the lieutenant's examination.

Objected to;

THE COURT: Objection sustained.

Q Well, do you know that the sergeant's examination was withdrawn and a new examination called because of alleged fixing?

Objected to; objection sustained.

Q Then you said to him after he made that expression "One of them Civil Service fixers" you asked him how he knew, didn't you? A Yes, sir.

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Q And the answer again? A I know.

Q I know? A Yes, sir.

Q A wise sweeper, wasn't he?

Objected to; objection sustained.

BY MR. DONOHUE:

Q It was at that time he said to you or you said to him "Why don't you send him over to see me Billy? A It was after that.

Q After Austin came to see you? A Yes, sir.

BY MR. MOORE:

Q How long after that was it Austin came to see you? A A few days after, perhaps a week, I do not remember exactly.

Q Wasn't it over two or three weeks after? A A few days after.

Q Wasn't it over three weeks after? A No, sir, it was not.

Q How long was it? A I can't recollect exactly.

Q Let us see if we cannot get it down definitely. You got started with a letter which was received about the 2nd of July. About how long after that was the first man to see you? A About two or three weeks.

Q Then about how long after the first man came to see you was it that you had this talk with Lappin in the station house? A perhaps two or three weeks.

Q You say there was nearly two months elapsed? A I didn't count those; I didn't expect anything like this would de-

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velop.

Q Then you were uncertain as to how many weeks before Austin called was it that you had a talk with Lappin? A Just a few days, perhaps a week.

Q You say a few days or a week. There was two months expired from the second of July to the 29th of August, that is eight weeks now. You said the first man called two or three weeks after the letter was received? A Yes, sir.

Q How long after that, fixing that call, was it a week or two weeks after that call or three weeks that you had this talk with Lappin in the police station? A It was about two or three weeks to the best of my recollection; I did not count the dates.

Q Well, about eight weeks elapsed from the time that you received the letter until the time that Austin visited you?

A Well, I received the letter July 2nd, and I saw Austin August 28th, that is about eight weeks.

Q So that Austin did not come to see you immediately after the talk that you had with Lappin, did he? A A couple of days after.

Q A couple of days again you say? A I am sorry I did not count those days.

Q But a moment ago you said a week, getting down closer to it? A Two days, perhaps a week, my best recollection.

Q Have you any recollection about it at all? A No, sir, I have not.

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Q So it may have been shortly after you received the visit of the first man or it may have been a week or two or three weeks after? A No, sir, nothing of the kind.

Q Well, what is it then? A Well, I already stated that Austin came to see me on Fulton street a few days after Lap-pin told me that the fixer was down to the station house to see me; as to the number of days I do not recollect.

Q Now then as to the number of days after the first man had seen you you do not recollect that? A I certainly do not.

LOUIS J. VALENTINE, a witness called on behalf of the People, being duly sworn, testified as follows:

(The witness states he is connected with the Detective Bureau.)

DIRECT EXAMINATION BY MR. DONOHUE:

Q On August 29th, did you meet the defendant, William Austin? A Yes, sir.

Q Where did you meet him? A About 1.55 p. m. August 29th, I, observed Mr. William Austin enter Patrolman Nicolay's room at 103 West 48th street.

Q Did you before he went to that room give Officer Nicolay any money? A I did.

Q In what denomination was that money? A Two hundred dollars, one one hundred dollar bill and ten tens.

Q Where was it marked? A Marked the one hundred dollar bill was marked on the figure in the upper right hand corner with Inspector Costigan's initials, D. E. C. and the smaller bills were marked with the initials D. E. C. on the dark shadows

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around the photograph.

Q Have you got those bills with you? A Yes, sir, I have.

Q Where was Mr. Nicolay when you gave him this money?

A In his room on the top floor of 103 West 48th street.

Q When was the next time you saw that money? A I saw that money about 2.30 when I placed William Austin under arrest corner of 48th street and 6th avenue, I took it from his trousers pocket.

Q Did you subsequently meet Mr. Lappin and arrest him?

A Yes, sir, I did.

Q Where? A On September 19th at about 4 p. m. at the 149th street precinct station house.

Q Did you have any talk with him at that time? A I questioned him and he refused to answer any questions at that time.

Q What did he say, Officer?

Objected to;

Q What did you say to him? A I asked Lappin did he know Austin; he denied knowing him.

Q What did he say. Tell us what you said and what he said, and do not give us your conclusion? A I asked Lappin did he know Austin, and he said, no, he did not.

Q What else did you say to him, anything else? A Not at that time.

Q Did you tell him what you arrested him for? A Yes.

Q What did he say in reference to that? A He said he knew nothing about the matter.

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Q Where did you go with him then? A I took him to Mr. Fitzpatrick's office in this building, assistant district attorney Fitzpatrick's office where he was questioned by Mr. Fitzpatrick in the presence of Inspector Costigan and myself.

Q Who else was there? A There was a stenographer present and Mr. Fitzpatrick and Inspector Costigan, defendant Lapin and myself.

Q Did you ask him any questions at that time, you yourself in the District Attorney's office? A I don't recall whether I asked him any. Mr. Fitzpatrick was interrogating him.

Q Did you hear Mr. Fitzpatrick ask him whether or not he knew Austin? A I did.

Q Who besides Mr. Fitzpatrick? A Mr. Fitzpatrick questioned him and I believe Inspector Costigan asked him a few questions.

Q Did you hear Mr. Fitzpatrick ask him whether or not he knew Austin? A I did.

Q Who besides Mr. Fitzpatrick? A Mr. Fitzpatrick questioned him and I believe Inspector Costigan asked him a few questions.

Q Did you hear Mr. Fitzpatrick, the assistant district attorney, at that time say do you know William Austin and did you hear him say no, sir.

A I did.

Q Did you hear Mr. Fitzpatrick say to him, were you ever

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introduced to Austin by Mr. Greene and did you hear Mr. Lappin say no, sir? A I did.

Q Did you hear Mr. Fitzpatrick ask him whether or not he had been over to the Tombs to see Mr. Austin? A I did.

Q Did you hear what his answer was? A Yes, sir, I did.

Q What did he say? A He had never been there.

Q Were you present in Mr. Fitzpatrick's room when the defendant was asked to write at the dictation of Mr. Fitzpatrick? A I was.

Q I show you this paper and ask you whether or not that writing was made in your presence by the defendant? A No, sir; this is not the writing that was made in my presence.

Q I show you another paper? A Yes, sir, that was made in my presence in Mr. Fitzpatrick's office on September 19th.

(The paper last referred to is marked People's Exhibit 6.)

Q Did you hear anything that Mr. Fitzpatrick asked the defendant with reference to shaking down for two hundred dollars or anything of that nature? A I did.

Q Tell us what you heard Mr. Fitzpatrick say, and what you heard the defendant say? A I can't exactly recall just what Mr. Fitzpatrick said, but he asked him a question about whether or not he knew of anybody shaking Mr. Nicolay down and I cannot exactly recall the wording of it.

Q Did you hear Mr. Fitzpatrick say to him--

MR. MOORE: Let him tell what he heard first before

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you refresh his recollection.

Q Tell us what you heard? A Mr. Fitzpatrick if I recollect correctly, Mr. Fitzpatrick asked the defendant, Lappin, who was seated across the table did he know William Austin, and he replied that he did not know him. He asked him did he know Officer Nicolay, and he said he did know Officer Nicolay. He asked him did he know there was some one trying to shake down Officer Nicolay or words to that effect if my recollection holds good the defendant Lappin replied that he did not know there was anybody shaking or attempting to shake down Nicolay.

Q Did you hear anything said at that time about whispering going on at the station house? A yes, sir, I heard something about that.

Q Tell us about that, what did Mr. Lappin say about that? A Mr. Fitzpatrick questioned Mr. Lappin whether or not there was any whisperings going on in the 149th street precinct station house and I believe that the defendant Lappin, replied that there were whisperings but he didn't know just what they were; he heard the men whispering.

Q Did you search Austin when you arrested him? A yes, sir, I did.

Q Did you find this pink slip on him? A Yes, sir, I did.

Q How do you know that is the pink slip that you found on him? A Because I marked it just as soon as I took it from his person; put my initials on it.

Q Your own handwriting? A yes, sir.

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Q Now, what happened to Lappin after you arrested him, where did you bring him? A After leaving Mr. Fitzpatrick's office in this building I took the defendant to police headquarters, the detective bureau, arraigned him at the desk, his pedigree was taken, and then took him downstairs and had him finger printed. From there I took him into the detention pen and the attendant there took his name and placed it on record, and while the attendant was writing his name on the record Lappin asked him could he notify a friend of his that he was arrested and the attendant told him to write his name and address on a piece of paper with the telephone number and he would be notified by the desk officer.

Q Did you see Lappin write his name? A I did. Lappin took from his pocket this piece of paper, and then asked me did I have a pencil. I handed him a pencil and I saw the defendant Lappin write this memorandum.

(The memorandum just referred to was marked people's Exhibit 7 for identification.)

Q You saw the defendant make this people's Exhibit 7 for identification? A Yes, sir.

Q Write that? A Yes, sir, I saw the defendant write that.

Q What did he write there? A The number that the defendant wrote is on this slip of paper; that was on the slip of paper when it was handed to me.

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Q What happened to that other piece of paper? A He turned it over to the attendant in the detective bureau and I directed that the attendant give me that piece of paper.

.Objected to.

Q You saw Lappin write that? A I did. I retained possession of this piece of paper.

Q It has been in your possession ever since? A Yes, sir, ever since.

Q Did you have any more talk at any time with Mr. Lappin, Lieutenant? A I subsequently arrested the defendant Lappin again, I rearrested him on September 28th, I believe, on a bench warrant, at his home, 1970 Fulton street. I took him in my custody over to the Tombs prison from his home. We came over on a Fulton street elevated train. I sat alongside of the defendant Lappin, and I asked him why he had gone to see Patrolman Arthur Owens of the 149th precinct. He at first denied having gone to see Owens on post, but I persisted, I again asked him in a few moments and he replied that he had gone to see him, but that I could not blame him for trying to himself.

Q Did you tell him the conversation that you had with Officer Owens in reference to the defendant going to see him? A I did.

Q What did you tell Lappin about that?

MR. MOORE: I object to that. We are getting hearsay evidence practically.

Objection overruled; exception.

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A I asked the defendant, Lappin, did he know Austin, and he replied that he did not. I then said "Did you at any time introduce Patrolman Arthur Owens of the 149th Precinct to Austin in Doherty's liquor saloon, and he denied having done so.

Q Instead of saying he denied, say what he said? A He said he did not. I then asked the defendant, Lappin, why he had gone-- I then asked him whether or not he had gone to see Owens on post, and asked Owens to change his testimony, his statement to me, I asked him did he think it was fair to Owens to ask Owens to jeopardize his position for him and he said that Owens hadn't made any statement under oath, and that I could not blame him for going to Owens and trying to help himself.

(At this point the Court admonished the jury, and took a recess.

AFTER RECESS.

LOUIS VALENTINE, a witness for the People, resumes the stand.

CROSS EXAMINATION BY MR. MOORE:

Q Lieutenant, at the time that you and the assistant district attorney Fitzpatrick had the talk in this building with the defendant about which you have testified Austin was not present? A No, sir.

Q So that neither was he brought into the room where you were talking when he was asked if he knew William Austin, was he? A No, sir.

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Q Now you were also examined on the former trial of this action, were you not, Officer? A I was.

Q With reference to this talk that you had with the defendant in regard to Officer Owens, do you remember that? A Yes

Q Did you say this "I then asked him why he went to see Patrolman Owens and he at first said that he did not see Owens, and after he asked me could I blame him for trying to help himself", is that correct? A That is correct.

Q "I then said-- I asked the defendant whether he thought that Patrolman Owens would jeopardize his position by repudiating a statement which he had previously made, and he made no reply to that", is that what you said? A I may have testified to that.

Q That is all that you testified to in that regard, is it not, Officer? A I can't recall all that I testified to on the former trial.

RE DIRECT EXAMINATION BY MR. DONOHUE:

Q But you testified at the former trial, Lieutenant, with reference to people's Exhibit 7, for identification, did you not? A Yes, sir, I did.

Q Did you testify at the last trial that "On the evening of September 28th I again arrested this defendant Lappin at his home, 1970 Fulton street on a bench warrant issued by William Carroll, clerk of General Sessions?

THE COURT: That has all been gone over. Objection sustained.

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Q Have you given substantially the testimony on this trial you gave at the last trial? A I have.

MR. MOORE: I object to that.

THE COURT: Objection sustained. The jury will disregard the answer.

MR. DONOHUE: It will be conceded that the defendant wrote this paper which will save certain witnesses from being called.

(The paper referred to is marked People's Exhibit 8.)

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

(The witness states he is a deputy assistant district attorney.)

DIRECT EXAMINATION BY MR. DONOHUE:

Q Mr. Fitzpatrick, you are a deputy assistant district attorney, of New York County? A Yes, sir.

Q Mr. Fitzpatrick were you a deputy assistant district attorney of New York County on September 19, 1917? A I was.

Q Did you at that time have occasion to question the defendant William Lappin in your room? A I did.

Q Will you tell us who was present at that time, if you recall? A Captain Costigan and a stenographer and I believe two officers from -- I don't know their names.

Q Did he at that time do any writing for you? A He did.

Q I show you People's Exhibit 6 for identification and ask you whether or not you saw the defendant Lappin write that?

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A I did.

Q In your presence? A Yes, sir.

Q Did you at that time question him as to whether or not he knew the defendant William Austin? A I did.

Q Did he say whether or not he did know him? A He said he did not know him.

Q You asked him various questions and there was a stenographer present? A I did.

Q Did you ask him if he ever met Mr. Austin at all? A Yes, sir, I did.

Q What did he say to that? A He said he did not.

Q Did you ask him if he had gone over to the Tombs to see Austin? A I did.

Q What did he say to that? A That he had not.

Q Did you ask him whether or not he heard anybody speak about Austin going around shaking people down? A I believe I did ask him that question.

Q Do you recall what his answer was? A If my recollection serves me right he said that he ^{had} heard whisperings of some kind in that matter.

Q In which officers names were mentioned? A Yes, sir.

Q Did you hear Inspector Costigan asking if he knew Austin? A Yes, sir, I did.

Q What did you hear him say in reply to that? A He said he did not.

Q Do you know the stenographer's name who was present on that occasion, Mr. Fitzpatrick? A I think his name was Mac-

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Donald.

Q He is attached to the District Attorney's office?

A Yes, sir.

CROSS EXAMINATION BY MR. MOORE:

Q This conversation was on the 19th of September? A Yes.

Q At that time Austin was confined in the Tombs? A Yes, sir, he was.

Q He was arrested, as you understand, on the 19th of August, and has been confined there ever since? A Yes, sir, that is correct.

Q Austin was not brought into the room where you were interrogating this defendant? A He was not.

Q So that at that time you simply asked him if he knew Austin? A Yes, sir.

Q Did you now? A That is correct.

Q He said he did not? A Yes, sir. He said he did not.

J O S E P H L. M c G R A T H, a witness called on behalf of the People, being duly sworn, testified as follows:

(The witness states he is attached to the First Branch Detective Bureau.)

DIRECT EXAMINATION BY MR. DONOHUE:

Q Are you attached to the Detective Bureau of the police department of the city of New York? A Yes, sir.

Q Were you so attached when Mr. Lappin was placed under arrest? A Yes, sir.

Q Austin, I mean? A Yes, sir.

Q When was that? A The 29th of August, 1917.

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Q That was at 103 West 48th street? A The arrest took place at 48th street and 6th avenue.

Q Did you search the defendant Austin? A I accompanied Valentine, the sergeant, and in my presence--

Q Did you see Officer Valentine take that paper from his possession? A Yes, sir.

Q Did you see him take the money? A Yes, sir.

Q Two hundred dollars? A yes, sir, I saw him Inspector Costigan personally mark that same money in the office of Special Squad 2 of the Detective Bureau.

Q Were you present at the interview between Mr. Fitzpatrick and the defendant? A No, sir.

MR. MOORE: No cross examination.

MR. DONOHUE: I am waiting for two witnesses who will be here any minute, a handwriting expert and Mr. Moskowitz.

ALBERT S. OSBORNE, a witness called on behalf of the People, being duly sworn, testified as follows:

(The witness states he resides in Mont Clair, New Jersey.)

DIRECT EXAMINATION BY MR. DONOHUE:

Q Mr. Osborne, what is your business or profession?

A I am an examiner of questioned documents, disputed handwriting, typewriting, paper &c.

Q How long have you been in that business or profession?

A Upwards of twenty five years.

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Q During that time have you made a study of handwriting?

A I have.

Q You have written books on it? A I have one.

Q You have testified in quite a few cases, have you not?

A Yes, sir, I have.

Q Where disputed handwriting was in evidence? A Yes, sir.

Q Tell us some of those cases, Mr. Osborne? A You mean the names of them?

Q Yes, of the more important ones? A Well I have had cases in thirty seven states and in Canada. I was in Rice-- Patrick case in this city, tried here; in the Molineaux case; in the Alderdyce case, tried here, in the McNamara case in Los-Angeles and in the Job McMartin in St. Johns, Newfoundland; in the McIntyre case in Southern Florida, Areadia.

Q Have you testified frequently in courts? A Yes, sir, that is, I did not testify in all of those states, but I testified, perhaps in about twenty five of them-- that is some of the cases did not go to trial.

Q During the last twenty five years you have specialized in the study of handwriting? A I gave my whole time to it upwards of twelve years; before that time, for an increasing amount of my time up to twelve years ago or about twelve years ago.

Q Now, Mr. Osborne, have you at my request examined people's exhibit 7 for identification and 8 for identification?

A Yes, sir.

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Q I show you People's Exhibit 5 for identification and People's Exhibit 1 for identification? A I did.

MR. MOORE: If your Honor, please, the standards I do not understand have been introduced in evidence. They have only been marked for identification.

(The papers referred to People's Exhibit 1, People's Exhibit 5 and People's Exhibits 6, 7 and 8 were then marked in evidence.)

Q Now, Mr. Osborne I show you People's Exhibits 6, 7 and 8, which are conceded to be in the handwriting of this defendant, and I also show you people's Exhibit 1 for identification, people's Exhibit 5 for identification, and I ask you to compare them, and tell me whether or not in your opinion they were written by the same hand? A I haven't seen these for several weeks.

THE COURT: Take your time.

(The witness then examines the papers.)

THE WITNESS: (After examination.) In my opinion the two exhibits 1 and 5 are written in the same handwriting as People's exhibits 6, 7 and 8.

Q In other words, people's Exhibits 6, 7 and 8 are in the same handwriting as people's exhibits 1, and People's Exhibit 5 for identification? A Yes, sir.

Q Now, will you tell the jury just what you base that upon?

THE COURT: Isn't that a matter for cross examina-

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