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VOL. I

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PEOPLE -vs- JOHN J. MURTHA - and others.

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N. Y. SUPREME COURT,

Trial Term - Part 1.

(For the trial of criminal cases)

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

-against-

DENNIS SWEENEY,
JOHN J. MURTHA,
JAMES P. THOMPSON, and
JAMES E. HUSSEY.

: Before:
: Seabury, J.,
: and a jury.
:
:
:-----X

Indictment for Conspiracy.

Indictment filed April 14th, 1913.

April 29th, 1913.

APPEARANCES:

FOR THE PEOPLE:

MR. CHARLES S. WHITMAN, District Attorney, Messrs FRANK MOSS and JOHN E. CLARK, Assistant District Attorneys.

FOR THE DEFENDANT Dennis Sweeney, MR. GEORGE GEORGE BATTLE and MR. ALFRED J. TALLEY;

FOR THE DEFENDANT John J. Murtha, MR. ABRAHAM S. GILBERT;

FOR THE DEFENDANT James P. Thompson, Messrs JOHN B. STANCHFIELD and ARTHUR L. DAVIS;

FOR THE DEFENDANT James E. Hussey, Messrs FRANCIS L. WELLS and HERBERT C. SMYTH.

(The defendants appear at the bar)

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THE CLERK OF THE COURT: Dennis Sweeney, John J. Murtha, James P. Thompson and James E. Hussey, if you intend to challenge an individual juror, you must do so when the juror appears and before he is sworn. Do counsel for the defendants desire that repeated as to each juror?

DEFENDANT'S COUNSEL: No.

(A jury was then duly empanelled.)

THE COURT: Now, gentlemen, if you are ready, we will proceed.

MR. SKYTHE: May it please the Court, we move to dismiss the indictments upon the ground:

First, that it fails to state a crime, in that it attempts to allege a conspiracy and from the face of the indictment it appears that the conspiracy was merged in a felony. Therefore, the indictment must fall. If your honor desires to hear argument on that, I will point out particularly what I mean.

THE COURT: I think the Peterson case settled that.

MR. SKYTHE: The which case?

THE COURT: The Peterson case, 60th Appellate Division.

MR. SKYTHE: I have a later case than that, People against Veitches, 94th --

THE COURT: Yes, 94th. A different rule applies where the felony is but one of the acts alleged.

MR. MEYER: It appears from the indictment that the conspiracy has ripened into a felony. That is to say as it appears in the indictment here, one of the overt acts is alleged to be a violation of Section 8440 of the Penal Law, with regard to offering or promising to give a witness a bribe to withhold true testimony, which is made a felony and that is substantially set forth as an overt act in the indictment.

THE COURT: Are there not other overt acts set forth also?

MR. MEYER: There are other overt acts.

THE COURT: Does not that hold exactly within the rule laid down by Judge Rulacey in the Peterson case?

MR. MEYER: You mean the Fourth Department?

THE COURT: No, I think he was sitting in our Appellate Division.

MR. MEYER: I think there was a case arising in the Fourth Department. The rule as originally laid down by Judge Bartlett in the McKane case seems to have been adopted, without question ever since. There have been no cases overruled that case. There it specifically says a demurrer to an indictment to commit a conspiracy, charging overt acts to show the felony was actually committed, must be sustained on the ground that the misdemeanor was merged in the felony, and in the Welch case, the 94th

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Appellate Division the court said this question of course relates to the form of the indictment and the facts alleged do not constitute a crime. This question might have been raised by demurrer and so forth. They adopted that same rule. Now there has been no decision which has overruled that rule.

THE COURT: No, but in the McKane case there was only one felony alleged. The act that was stated in that indictment set forth and consummated or completed the felony. Now in the Peterson case and in the Weiches case, that was not so. There were other acts alleged.

MR. SMYTHE: Yes, but the decision did not go upon that ground.

THE COURT: I think it did. In the Peterson case, Judge Ramsey said the only acts in which one crime can be merged in another, if it can be merged, is where the illegal agreement was to do the very thing which was finally done and which being finally done is another crime of greater degree, and in all of the late cases it is recognized.

MR. SMYTHE: In this indictment, it appears that one of the acts that was attempted to be done and which is alleged was done, was offering Fox a certain sum of money if he would not plead guilty and would not testify and would withhold his testimony, and that this promise was

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accepted.

MR. WHITMAN: It was not accepted.

MR. SMYTHE: It alleges that that promise was made and that he stayed out of the State.

MR. WHITMAN: Sipp stayed out of the State.

MR. SMYTHE: I mean to say Sipp stayed out of the State. I will read the exact allegation: -- "Afterwards, to-wit, on the first day of February, in the year 1913, in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement and to affect the purposes thereof, the said James F. Thompson did promise the said Eugene F. Fox a large sum of money, to be paid to him, the said Eugene F. Fox, if he would refuse to plead guilty to the said indictment and if he would refuse to state the facts relative to the said payments so theretofore received by him." That sets out the crime that is defined in Section 2440 of the Penal Law. Merely that there are other things connected with the conspiracy, does not change the principle that the conspiracy was merged in ~~this~~ this felonious overt act alleged.

THE COURT: It is a very technical rule, and I think to bring one's self within it, they must exactly within the rule laid down in the McKane case. I do not think this indictment does. So far as your motion is based on

that objection, I will deny it.

MR. SMYTHE: We take exception to that, and I have a further ground, which in effect raises the same questions that were argued before you the other day. That is, that it appears from the face of the indictment that it was found upon illegal evidence, in that only the testimony of accomplices was before the Grand Jury.

THE COURT: I deny the motion.

MR. SMYTHE: We take exception, and that motion is made on behalf of all of the defendants, of course, and also upon the general ground that the indictment does not allege facts sufficient to constitute a crime.

THE COURT: Motion denied.

MR. SMYTHE: Exception.

MR. STANCHFIELD: May we file with the stenographer the formal motions that we desire to make?

THE COURT: Yes. I have no objection. I would like to look at them, that is all, to see what goes on the record.

MR. STANCHFIELD: I did not want you to take the time to read them at length. They are filed on behalf of all the defendants.

THE COURT: I will have those put on the record, as if they had been made by each defendant and deny with an exception to each of the defendants.

MR. BATTLE: Exception to each defendant on each ground?

THE COURT: Yes.

The motions are as follows:

MOTION TO DISMISS INDICTMENT.

The defendant moves to dismiss the indictment upon the ground,

First: That the facts stated therein do not constitute a crime.

Second: That the facts stated therein do not constitute the crime of conspiracy.

Third: That the facts stated therein do not constitute the crime of conspiracy for the perversion or obstruction of justice or of the due administration of the laws within the meaning of Sub-division 6 of Section 580 of the Penal Law of the State of New York.

Fourth: That it appears on the face of said indictment that it attempts only to charge an alleged conspiracy to prevent the due course of law and justice and that such a conspiracy is not included within the provisions of Section 580 of the Penal Law of the State of New York, nor of any other provision of the Penal Law of the State of New York, and is not a crime.

Fifth: That the facts alleged in said indictment do not show that the defendants conspired to prevent the due course of law and justice, or for the perversion or obstruction of justice or the due administration of the laws,

or that law or justice was being administered.

Sixth: That it does not appear from the facts alleged in said indictment that the ~~extra~~ written charges alleged to have been made and preferred against one Eugene F. Fox by one Max F. Schmittberger, charging said Fox with violations of the rules of the Police Department and with conduct unbecoming an officer, were made or filed under or in accordance with any authority given by law, or that the making or filing of said charges constituted the administration of law or the administration of justice, or that the Police Department or any official thereof had authority or jurisdiction to receive or hear said charges or evidence thereunder, or to issue any subpoena requiring the appearance and attendance of witnesses.

Sevent: That it does not appear from the facts alleged in said indictment that the written notice alleged to have been directed to said Eugene F. Fox, signed by the said Max F. Schmittberger and served upon the said Fox, was so signed or served under authority of law, or that the same constituted the administration of law or the administration of justice, or that the Police Commissioner or Deputy Commissioner of Police had authority or jurisdiction to examine into the charges as set forth in said notice.

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Eighth: That it does not appear from the facts alleged in said indictment that the proceedings before Peter T. Barlow, Esq., one of the City Magistrates in the City and County of New York, against one Fox, on or about the 24th day of December, 1912, constituted the administration of law or the administration of justice, or that the said Peter T. Barlow, Esq., had authority or jurisdiction to receive or entertain said charge or to examine into the same, or that said charge was duly made in accordance with law, or that said charge constituted a charge of the violation of any statute, or charged said Fox with any crime.

Ninth: That it does not appear from the facts alleged in said indictment that the said Peter T. Barlow, Esq., had jurisdiction or authority to issue a subpoena requiring the appearance and attendance of one George A. Sipp before him at the First District City Magistrate's Court at the time and place alleged in said indictment upon the examination of the charge against the said Fox referred to in said indictment, or that said subpoena constituted the administration of law or the administration of justice.

Tenth: That it does not appear from the facts alleged in said indictment that the defendant, James F. Thompson, had knowledge that law or justice were being administered in the proceeding alleged to have been instituted by the

filing of charges by the said Schmitzberger, or in the proceeding alleged to have been instituted before Peter T. Barlow, Esq., on complaint of one Talt against said Fox.

Eleventh: That the charges contained in said indictment that the defendants conspired

"to prevent proof of the said facts relative to the said payments and of the circumstances under which and of any agreement, arrangement or understanding pursuant to which such payments were made, in any and all actions and proceedings which might thereafter be instituted against the said Eugene F. Fox or the said Thomas W. Walsh or the said Dennis Sweeney or the said John J. Murtha, or the said James F. Thompson or the said James E. Hussey, upon any charge arising therefrom or connected therewith, by such dishonest, corrupt, fraudulent, deceitful, unjust and illegal means, methods, devices and practices as they should thereafter deem available, to the great and manifest perversion and obstruction of justice and of the due administration of the laws,"

are indefinite and uncertain and do not charge the defendants with conspiring for the perversion or obstruction of justice or the due administration of the laws and do not acquaint the defendants with any actual charge against

that or allege any actual conspiracy, and do not apprise this defendant with reasonable certainty of the precise nature of the accusation against him, and do not apprise this defendant of the accusation against him with a certainty sufficient to allow or enable him to prepare his defense and do not apprise this defendant of the accusation against him with a certainty sufficient to allow or enable him to plead a judgment rendered on a trial thereof as a bar to any subsequent prosecution for the alleged offense.

Twelfth: That the said indictment is insufficient in law for the reason that it does not apprise this defendant with reasonable certainty of the precise nature of the accusation against him; and for the reason that it does not apprise this defendant of the accusation against him with a certainty sufficient to allow or enable him to prepare his defense, and for the reason that it does not apprise this defendant of the accusation against him with a certainty sufficient to allow or enable him to plead a judgment rendered on a trial thereof as a bar to any subsequent prosecution for the alleged offense.

OPENING ADDRESS OF ASSISTANT DISTRICT ATTORNEY CLARK.

May it please the Court, Mr. Foreman and Gentlemen of the Jury: These four defendants are to be tried before

you on an indictment, charging them with the crime of conspiracy. Conspiracies may be of various kinds, but the conspiracy which is charged against these four defendants, that they agreed and conspired together to commit an act for the perversion and obstruction of justice and the due administration of the law. In other words, that they combined and agreed among themselves to do something, the result of which would be to interfere with the proper enforcement of the law in this State, they at the time being officers of the Police Department of the City of New York. The conspiracy indictment differs somewhat from the ordinary indictment with which some of you doubtless have been familiar in connection with your prior service, and which you may have thought was extremely technical and involved and meaningless, in that a conspiracy indictment sets forth rather clearly and with much particularity, both the facts which are usually stated by way of inducement. That is to say, the preliminary facts outlining the situation that existed; and then the conspiracy which was formed and then the certain acts which were performed as the result of the conspiracy, and perhaps the easiest way to give to you a clear idea of the charge which is made against these four defendants, is to read to you briefly first, the terms of the indictment, omitting legal technicalities and phraseology. The indictment

charges that during the years of 1908 to 1911, there was at 2025 Lexington Avenue, at the corner of 124th Street, in the Borough of Manhattan, in this County, a hotel, which was variously known as the Boulevard, the Baltic, and the Avenel, and that through 1908 and 1909 and until October 21st, 1910, one George A. Sipp was the manager of that hotel. The indictment then charges that during the period from January 1st, 1908, through the year 1911, one Eugene F. Fox was a patrolman on the police force of the City of New York. One Thomas W. Walsh was assigned to duty in the Sixth Inspection District of the City, in which was located this hotel, and that in the 43rd Police Precinct in which the hotel was located, Thomas W. Walsh was at all of the times mentioned -- that is from 1908 to 1911, the Captain in charge, and that from January 1, 1908, to September 29th, 1909, the defendant Thompson was the Inspector in the Sixth Inspection District, which included within it the 43rd police precinct. That from September 29th, 1909, until March 4th, 1910, the defendant Huesay was the Inspector in charge of the Sixth Inspection District. From the 4th of March, 1911 -- I should have said to the 13th of June, 1911, the defendant Hurtha was the Inspector in charge of the Sixth Inspection District, and that from June 13th, 1911, until the end of that year, the defendant Sweeney was the Inspector

in charge of that district. The indictment then goes on to charge that during that entire period, from the first of January, 1908, to the year 1911, Sipp paid every month to Fox, a patrolman, one hundred dollars. That Fox in turn paid over to his superior, Captain Walsh, eighty-five dollars, retaining the other fifteen dollars, and that Walsh made an equal division with the Inspectors as they came along from time to time. At first to Thompson, then to Hunsay, then to Murtha and then to Sweeney. Then the indictment proceeds to the point where these facts were first brought to the public attention by the testimony of George A. Sipp, before the Committee of the Board of Aldermen of this City, commonly called the Curran Committee, a special committee which was appointed last summer to investigate the police affairs in this city and alleges that at that time, Sipp, as a witness, testified that during the period from 1908 until 1911, he had made this payment each month to Fox, for the purpose of obtaining freedom from prosecution and conviction for any crimes that might be committed in his hotel, and to protect him from prosecution on the ground of keeping a house of ill fame, or violations of the Liquor Tax Law or any other violations of law which might otherwise have been charged and perhaps possibly proved against him. The indictment then alleges that on the 24th of December, a

little less than a week later, Fox was made the subject of charges at Police Headquarters by his superior officers, which charges alleged that he had violated the rules of the Department and had been guilty of conduct unbecoming an officer, on account of the collections which he had made or was alleged to have made by Sipp. And on the same day that these charges were formulated against him, he was arrested by a detective at Police Headquarters and taken before the Magistrate sitting in this building, in the First District Magistrate's Court, and charged by that detective, on information and belief, with having committed the crime of receiving a bribe. Thereupon a subpoena was issued to compel the appearance of Sipp as a witness in the Magistrate's Court, the Magistrate having adjourned proceedings from the 26th until the 27th, Friday of that week, and the subpoena was also issued and was served upon Howard Sipp, the son of George A. Sipp, who was alleged to have had some knowledge with regard to the payment of money to Fox, requiring his appearance at Police Headquarters. That all is, as I have said, a matter of inducement, preliminary matter to give you the situation as it existed when the indictment charges the conspiracy occurred. The indictment then proceeds to the direct charge that these four defendants then, Dennis Sweeney, John J. Murtha, James P. Thompson and James E.

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Hussey, knowing the foregoing facts and intending to prevent the due course of law and justice, conspired and combined among themselves and with others, to prevent George A. Sipp and his son from testifying and to prevent proof at the examination, both at Police Headquarters and before the Magistrate, of the facts with regard to the payments which Sipp had made and the circumstances under which those payments had been made, and to prevent proof of those facts in any proceeding which might perchance arise, which would involve not only Fox, but Walsh and they themselves might be involved, should the proof as to the payments higher up come out. The indictment then charges that in pursuance of this conspiracy and combination, on the 26th of December these defendants entered into an agreement with Sipp, that if he would leave the State and remain outside of the State, where he would not be subject to process of the courts of this State, until this matter was disposed of, there would be paid to him the sum of a thousand dollars in money, and in case his stay outside of the State had to be prolonged over the period of a month, that he should receive a hundred dollars a week outside of that amount. The indictment then alleges as what the law calls overt acts, showing the carrying out of the conspiracy, that on the 29th of December -- that is the following Sunday night -- the

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Sunday after Christmas, Hussey, this defendant, promised Howell, who was Sipp's lawyer, that he, Hussey, would see to it that the balance of the money should be paid to Sipp which it had been agreed should be paid to Sipp for going outside of the State and staying outside of the State; and it also alleges that on the same day, the defendant Sweeney promised Walsh -- Captain Walsh, who was at that time lying on a sick bed, that he, Sweeney, would the following morning send over to Walsh the sum of eight hundred dollars, to which Walsh was to add one hundred and fifty dollars, and send it down to Fox to be delivered to Sipp. And the indictment alleges that pursuant to the agreement made by Sweeney on that Sunday evening, the following morning Sweeney did send eight hundred dollars to Walsh, who did add one hundred and fifty dollars to it and did send it down to Fox, who in turn caused it to be transmitted to Sipp. Subsequently the indictment charges at a later period, after Fox had been arrested on an indictment which was found as the result of the testimony of Sipp, who subsequently returned to New York -- the indictment charges that Sweeney agreed with Walsh that he would see to it that Fox should be admitted to bail, and that Fox was thereupon on that day admitted to bail, and that a fortnight later, pursuant to this same conspiracy, the defendant Thompson promised

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Fox that if Fox should be convicted, these four defendants, together with Walsh, would see to it that a large sum of money was paid to him, Fox, and to his family for their support in case Fox should be sent to prison. And the indictment further alleges as another overt act, that on the first of February, Fox's case was to come up on the third of February -- that on the first of February Sweeney obtained from Walsh the sum of six hundred dollars, as Walsh's share of the sum which was to be at once paid to Fox. These are briefly stated, briefly outlined, the essential allegations of the charge made against these four defendants. They are merely, however, the skeleton of the case which the People must prove, and I want now that you have that general idea of the conspiracy and the form which it took, to give you a little more in detail the facts which fill in the body of the People's case, and will show you more completely what it is that the People expect to prove. The facts with regard to Sipp paying the monthly sum to Fox and Fox passing it up to his captain and the captain passing it up to the inspector, are set forth in the indictment. I have already referred to it, and also the testimony of Sipp before the Aldermanic Committee, which caused the matter, to use the colloquial expression "to break." We expect to go on and prove to you in addition to these facts, the interlocking

series of events which we shall submit to you will prove to you, beyond a reasonable doubt, the fact that these defendants did conspire and agree together to defeat the ends of public justice. Now at the outset, let me make it perfectly clear to you, that we do not undertake to show that these defendants ever met in a single room and moved and seconded and agreed upon a plan and outlined a campaign, and made a formal agreement as to what they should do. All that we undertake to do and all that we believe the court will charge you that it is necessary for the People to do to sustain the charge contained in the indictment, is to show a series of facts and circumstances, which, taken together, will convince you beyond a reasonable doubt that these men were working together with a common purpose, to prevent the truth with regard to Sipp's payments to Fox, Fox's payments to Walsh and Walsh's payment to the Inspectors, to be brought to light. On December 18th, the day that Sipp testified before the Aldermanic Committee, there were at once summoned to Police Headquarters, Fox, Thompson, Russey, Walsh and other officers who had been mentioned by Sipp in his testimony that morning. Fox was immediately suspended by the Commissioner, because he had been directly named under oath by Sipp as having been a man to whom he had paid money by

way of bribes. All of these people were taken in before the Commissioner. That is, all of them got there that day. I am not sure that all of the Inspectors reached there that day. Those who were called all denied any knowledge on their part of any collections, and Fox himself denied that he had ever collected any money from Sipp. The others denied that they had ever received any money through Fox. The following day, which was Friday the 19th -- and you will excuse me, gentlemen, if in going over this, I impress upon you more or less these dates, because I shall want you to keep them pretty clearly in your mind, in order to understand the case. To understand a case like this, you ~~must~~ must have a pretty clear idea of what the various men were doing on the various dates. The following day was Friday, the 19th. Fox was again summoned to Headquarters. He appeared there and there also appeared there Captain Walsh, Inspector Thompson, Murtha and Mrs. Sipp, Sipp's attorney Newell and Sipp's doctor, Dr. Upham. A long hearing was held, beginning about five o'clock and lasting till half past seven or a quarter to eight. Fox before he went into the Commissioner's office, was approached by a lawyer, who is a member of a firm which had handled many cases involving policemen, the firm of Grant & Rouns, the man who approached him being Jacob Rouns. Rouns advised Fox not

to answer questions; and Fox when he went into trial Commissioner's room, followed the advice and declined then to answer any questions. The following Tuesday, Fox was again summoned to Headquarters. That was the 24th, the day before Christmas and the day which many of you yourselves may remember, which will be identified as the day when there was a heavy snowstorm the night before. Fox was handed back his shield. When an officer is suspended his shield is taken away from him. He was handed back his shield and was notified that he was restored to duty. He was then asked further questions with regard to Sipp's payments to him, the point having been made that having been under suspension before, he might not have been subjected to orders. Fox still following the advice of this lawyer House declined to answer any questions and after a brief hearing he was then suspended and taken down to the Chief Inspector's office and asked to remain there until a detective came in and placed him under arrest and brought him down to this Magistrate's Court, which occupies the other wing corresponding to this, in this building, and he was there arraigned, charged with the crime of accepting a bribe, the affidavit being made by Detective Towle, on information and belief, the bribe charged being the one to which Sipp had testified. Sipp was not in court. The magistrate adjourned the case un-

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all the 27th and held Fox in \$5,000, bail, and Fox in default of bail that evening was taken to the Tombs and spent Christmas eve there. The following day, Christmas Day, in the afternoon, Fox was bailed out and that same day, Christmas, in the afternoon, Howard Sipp was served at his home, 56 West 130th Street, with a subpoena calling for his attendance the next day before the Police Commissioner, on an investigation which the Police Commissioner was making, and at the same time there was left at Sipp's house a subpoena calling for the presence of George A. Sipp, the father, the man who had testified before the Aldermanic Committee, requiring his presence in the Magistrate's Court here on the 27th. That was Friday. On the 28th, the day after Christmas, Sipp received or found on his desk this subpoena, calling for his attendance in the Magistrate's Court, and he at once got in touch with his attorney. Sipp had been called down before the Aldermanic Committee and taken rather off his guard, and forced to testify there and the developments which occurred were not altogether to his liking. He had been a friend for years of Captain Walsh, and he began to feel that he had made himself the centre of a pretty serious situation, and he consulted with his lawyer as to what he should do with regard to the subpoena requiring his attendance in the criminal court. Newell

advised him for the present to keep dark and see what could be done, perhaps if he was going away and his going away was going to be beneficial to these defendants and to Walsh, that they would do what was only right as between friends, finance his trip and pay him to go and stay away. It also appears that prior to this day, that is prior to the 26th, the police under the directions of Greeney, who was still the Inspector in the Sixth Inspection District, were working up various stories, which if substantiated and if they could be proved, would tend to impeach the credibility of Sipp. At that time there was no idea that Sipp was going to leave the city. This evidence was being worked up by the Police department in connection with the case which the Police department was making against Fox for the effect it apparently would have upon it, injure the case against Fox instead of to strengthen it. It is not perfectly whether or not Sipp had been informed of the fact that this effort was being made around town or not, but he had no aversion to leaving the jurisdiction and getting rid of further trouble. Now right here, I want to make it perfectly clear to you gentlemen that we don't undertake to prove the facts with regard to this conspiracy by calling before you bank presidents and college professors, clergymen or even business men taken away from various works of life like you,

We are forced to prove the conspiracy by the people who knew about the facts. We are proving a corrupt conspiracy to defeat and divert public justice and the people who knew about that conspiracy were some of them parties to it, and we want that distinctly understood at the start of the case. The people on whom the People are required to rely for witnesses as to certain of these steps, are Sipp, who was an admitted bribe payer, Newell, his attorney, who assisted in obtaining the money from these inspectors, Fox who was accused and has since admitted that he for years did under the directions of his superior officer, make these collections, and Walsh, through whom the bribe money that Fox collected, was passed up to these four defendants when they were inspectors. There will be other witnesses produced here before you who are not in the class of conspirators and who are not subject to any of the reproaches that might be placed and doubtless will be placed by the learned and eloquent counsel for the defense upon these witnesses whom I have named, who will substantiate and corroborate the details with regard to this conspiracy, so that when we shall finish the case, we shall feel that we have given you evidence on which you are bound to find the facts are as we charge, but I simply want to make it clear right here when I first discuss the facts with regard to this conspiracy and its

formation, that a number of the Peoples witnesses are tarred with the same stick as these defendants, but they were not inspectors of police, not charged quite with the same degree of public trust with which these defendants were charged. Now when Hewell, who was Sipp's lawyer, heard that Sipp was wanted as a witness in the Police Court and Sipp was not unwilling to leave, he desired to get some money from these people and he at once communicated with Rouse, whom he knew as Fox's counsel in connection with these matters and whom he also knew to be in close touch with various police officers of New York City. Rouse said he would see what he could do and he thought it probably could be managed. Rouse at once got in touch with Fox. Fox got in touch with Walsh and Walsh in due turn got in touch with Gweeney, and he as one of these four defendants got in touch with the other defendants. Later on that afternoon of Thursday the 26th, Hewell again met Rouse, stopped at 96th Street on the way uptown that evening, and conferred further with Rouse, the first meeting having taken place downtown in the corridor of 165 Broadway, in the City Investment Building. Further discussion was then had as to the terms as to the amount which these defendants and Walsh would be willing to pay to finance Sipp's expedition away from the State. The following day, or that night, Sipp left the State. The fol-

Following day Fox's case was called and Sipp did not answer as a witness. He was still outside of the State. As a partial payment on account of the agreement which had been entered into, there was transmitted to Sipp on that day, Friday the 27th, two hundred and fifty dollars. Sipp had the understanding that he was to get a thousand dollars. That was the understanding which his attorney had given him. As a matter of fact the amount which the other side understood they were to give, was twelve hundred dollars, and the balance was retained by the attorney for Sipp. The two hundred and fifty dollars was paid on Friday, the 27th, to Newell, by Rouss, Rouss having received it from Fox and one hundred dollars of that was retained by Newell, the lawyer, as a retainer. The other one hundred and fifty dollars was given to Sipp as a preliminary payment to cover his early expenses. The balance of it was agreed should be paid later. By this time this fairly definite agreement which I have already outlined to you of twelve hundred dollars, had been pretty thoroughly discussed, but the final figure apparently was not agreed upon until the next day. The following day the balance of the money did not come. Sipp became a little bit nervous for fear his friends were not going to live up to their agreement, and he told Newell, and Newell in turn told Rouss and Rouss told Fox and Fox told Walsh, and Walsh

told Sweeney, But Newell also thought it was time to get in direct touch with one of these defendants, whom he had known for some years, and he himself that afternoon got in touch with Hussey, and on the evening of Saturday the 28th Newell and Hussey took dinner together over in Brooklyn, and discussed the problem of dealing further with Sipp. The following day, Sunday the 29th, Sipp became even more disgusted with the fact that the balance of the money was not coming. He had an idea that these defendants could pay the money if they wanted to and he came to the conclusion on Sunday that these defendants, were, to use the colloquial expression, "stalling", and he told Newell that he was getting disgusted with the situation, and that he was about ready to go back. Newell urged him not to do that. He says "wait till I see Hussey again and I will get in touch and see what can be done." He saw Hussey again that day, Newell did, and he also again conferred with Hussey, taking dinner with him again in Brooklyn. They came together over to New York. Hussey left Newell at 42nd Street subway station, telling him that he had an engagement to keep over there, but before he left he said to him "Now it is all right. I will arrange matters and the balance of the money will be paid over to you tomorrow morning." He first undertook to have it paid direct to Newell and Newell said "No; the

matter has been handled thus far through Rouse. I think you had better arrange it so it shall go through Rouse, for he has the other money", and he said "All right, I will attend it. It will come through tomorrow." That evening -- later in the evening, Sweeney went up to see Walsh. Walsh had been confined to his bed by illness, from the night of Saturday the 21st. The early morning of the 22nd, he reported on sick leave from that time and remained on sick leave at all times, until after he was dismissed from the Department. Sweeney called on Walsh and said "Now that matter is all arranged, Tom. The amount is fixed and the balance of the nine hundred and fifty is to be paid over tomorrow. I will send Johnny Hartigan over to you in the morning with eight hundred dollars. You put in two hundred and fifty dollars already, so you put in the one hundred and fifty on that and send it down by Hartigan to Fox and Fox will see that it is transferred." The following afternoon, the 30th of December, the day which had been fixed, at 2 P. M. -- the day which had been fixed for the adjournment of Fox's case in the Magistrate's Court -- when it had been called on the 27th by Magistrate Kerney had then announced he would give the police until Monday to produce Sipp and if they did not then do it, he was going to discharge the defendant then, and it was understood that Fox was going to be in the

Magistrate's Court at 2 o'clock and at the Police Commissioner's in connection with the charges that had been made against him. So Hartigan, the following Monday morning, came to Walsh's house, and handed him an envelope containing eight hundred dollars. Walsh opened it and counted, added one hundred and fifty dollars, which his wife brought him from a bureau drawer, put the whole nine hundred and fifty dollars in an envelope, gave it to Hartigan and said "Now, Johnny, here is nine hundred and fifty in this envelope, which you are to give to Eugene Fox for counsel fee, and I want to make sure that he gets it, so you tell him to count it before you leave." Hartigan came downtown that day -- came down and found Fox here in the corridor, just across the way, and said to him "Gene, I have got an envelope here with nine hundred and fifty in it from the captain for counsel fees. He says he wants you to count it." Eugene Fox was a policeman and he had an idea that possibly some people might be watching him, and he said "Don't give it to me. I cannot take anything here. People would be suspicious. Give it to Jim, my brother." So Hartigan left the building, went outside, met Jim Fox on the street, proceeded with Jim Fox down to a saloon; went into the toilet of a saloon; handed the money to Jim. Jim went into one of the compartments in the toilet, opened the envelope, counted the

money and said "That is all right," and they parted. Eugene Fox is the policeman, and Jim is his brother. Eugene at the time that he had told his brother to go out with Hartigan and get this money, had made an engagement to meet him, later, at Rouss's office, so after the proceedings were called in the Magistrate's Court on the 30th and no answer was received when Sipp's name was called, the Magistrate dismissed the proceeding and after Fox was discharged, he went down with Rouss to Rouss's office and there received from Jim the nine hundred and fifty dollars, which he gave to Rouss. Rouss soon afterwards had a telephone call from Newell. Met him in the Tube, or at the Jersey end of the Tube, delivered the nine hundred and fifty dollars there. The nine hundred and fifty dollars was taken by him to Newark and later in the day, he delivered to Sipp the five hundred and fifty dollars, which with the one hundred and fifty he had already received, made seven hundred dollars, and that was to be the balance which Sipp was to receive out of the thousand dollar fund. I think I said two hundred dollars was to be retained. Three hundred dollars was the amount they agreed Newell should retain. There had been another complication, however. It had been alleged that Howard Sipp knew of payments made to Fox. I believe it

had been alleged that he at one time had made a payment, and so it was desired in order to protect Fox and to estopp Howard Sipp, if the point should ever arise, to have a statement given by Howard Sipp, in which he should declare that he had never paid any money to Fox and that he knew of nothing about payments. That matter had been discussed pro and con between Rouss and Newell, Fox and Walsh, Walsh and Sweeney, Newell and Hussey, and up to the time when the money was finally delivered on Monday night, it was not decided whether the final delivery could be made unless Howard Sipp should come across with this statement. Finally, at half past eleven at night time, Newell-called up to Rouss and received the information that it was all right to deliver the money and the money was then delivered. So far, so good. The charges against Fox in the magistrate's Court were temporarily dismissed, but the situation became a little too strenuous. That afternoon after the charges had been dismissed, there was a pretty general public agitation about a witness against a policeman having disappeared, and charges were generally made that the police were interested in having Sipp leave the State. I have mentioned incidentally that Sweeney's men in Harlem had been working up charges against Sipp of a disagreeable nature, which might tend

seriously to impeach him as a witness if he should ever be called. I believe that the evidence will convince you that that was the sole object for which that evidence was originally obtained. Two coachmen had been found by two of the sleuths working under Sweeney, who were willing to swear that they had driven Sipp and young girls through Central park at night, and by peering between the cab and the curtains of the cab while rays of light were shed into the cab from electric lights, past which the carriage was driving, and they had seen Sipp once in the act -- one of them swore in the act and the other in the attempt -- to have unnatural intercourse by the mouth with these girls, who were being driven around. The charges originally obtained were utterly worthless for the purpose of criminal prosecution, because the coachmen swore that this had happened more than five years before, but by further search of the detectives, working under Sweeney, a girl was finally located up in the Magdalen Home, a prostitute, who was serving her second term up there on conviction of soliciting on the street. She was approached by these officers and gave to them a statement to the effect that she, with another woman, had some four years before been with George Sipp in a hotel up in Harlem, and that the three of them had disrobed, and that George Sipp had admitted the crime of sodomy on them, or

as the girl herself expressed it, "sucked them off", and that he had done it first on her in the presence of the other, and then on the other in the presence of the first. There was a criminal charge which might possibly be made use of to bring back this witness to be a prosecuting witness against the policeman. People at Headquarters heard of the activities which had occurred in Harlem and they sent for Gweeney and asked him what he had, and Gweeney, against his will, was forced to bring down the affidavit which he had obtained, and as they constituted a criminal charge and as the Commissioner had directed that Sipp should be brought back, they were lodged with a Magistrate and a warrant was issued on the 4th of January, this year, calling for the arrest of Sipp. Sipp, after he had left Newark on the morning of the 31st -- he stayed there over the night of the 30th -- had gone down first to Asbury Park and had then gone down to Atlantic City, arriving there on the 4th. Very shortly after he arrived there, he was arrested under this charge made by this woman, accusing him of having committed the crime of sodomy. In order to get extradition papers, the case had to be presented to the Grand Jury, and the witnesses were called down before the Grand Jury, both the detectives who had procured the evidence and the girl, and

the Grand Jury dismissed the charge. That occurred if I recollect correctly, on the 8th of January. I believe that was Thursday. The charge having been dismissed, there was nothing to hold Sipp in jail at Atlantic City, where he had been held for the four days and he was released there. Now you can say or think what you please of Sipp when he left the jurisdiction as he did, but you can imagine that a man who had been made the subject of a charge of that kind, if he had any manhood left in his breast, should make up his mind that the time had come to face the music, and he did, when the office of the District Attorney of this County got into touch with him, undertake to come back to New York, and on the 14th, the following Tuesday, he arrived in New York and gave testimony before the Grand Jury. The following day, the 15th, Fox was indicted and was arrested. The whole situation developed again which had confronted these defendants before and concerning which they had already made their agreement and their conspiracy, as we charge, to keep the matter down. Here was Fox finally arrested on a criminal charge, with Sipp in the jurisdiction. Fox was held in the Tombs prison from the 15th, over the 16th and the 17th, and Walsh, who knew Fox, for Fox had worked for Walsh directly, and not for these others, became very much worried for fear Fox would weaken and the next link in the

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chain would be to tie matters to Walsh, so he urged Sweeney that something must be done to keep Fox up. He says "If that fellow stays in the Tombs over Sunday, I don't think he will stand up", and Sweeney calmed him down and says "Don't worry. I will have him out Monday sure." "That won't be quick enough." "Well, we will get him out. I am attending to it. He will be bailed out." The following day, Saturday, the 18th of January, in the afternoon, five thousand dollars in cash was deposited with the warden of the Tombs and Fox was released. Well, the situation had taken a slightly different turn from what it originally had, and yet in its essential elements it was the same. The truth must not out. Fox perhaps might be convicted. How should he be persuaded to take his medicine. Fox went to see Walsh. He said "Captain, I am worried about this business. I don't see where I am going to come in. I am likely to be sent away and my wife and family left behind me." Walsh endeavored to mollify him and said "I think you are right, Gene. I think you ought to get something for doing your duty." And they discussed the amount. Fox thought he ought to get ten thousand dollars right out and that was the proposal which was first put up to these defendants. Ten thousand dollars right down, not an uncertain bargain, was a little less but more than they cared to put up and counter proposals were

made. Thompson, this defendant, arranged to have Fox send a messenger to meet him at 109th Street and Broadway, the messenger not knowing him, Thompson and Thompson not knowing him, the messenger, was to discuss in a general way a counter proposal, and Thompson proposed that as what Fox would need would be support for his family while he was in the Tomb, that if the five who were most interested would pay one hundred and twenty five dollars a month while he was in trouble, and he explained it to this messenger sort of like the installment plan of paying for furniture on the installment plan, and Fox's messenger was rather a bright chap and he said "Yes; there is nothing to prevent the ~~furniture~~ furniture being moved away after the first installment is paid and nothing more paid and he said "I don't think much of your proposal." That worried Thompson. He said "Tell Gene I will call him up," and having obtained the number on which he could reach Fox on the telephone, he called him ~~that~~ that night, and he himself, Thompson, ~~met~~ met Fox personally near the 96th Street subway station and they discussed the matter further, and gradually Thompson came to the point where he was willing to offer a little bit more than an installment proposition, and negotiations continued for the next two or three days between Fox and Thompson, the final bid Thompson made being something in the neigh-

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hood of three thousand dollars. The Friday night before Fox was called for trial, that is Friday night, January 31st, the Fox trial having been set for the third of February -- Sweeney went around to see Walsh and said "Well, Tom, we are going to put up about three thousand dollars cash for Fox at the start and your share of that is going to be six hundred dollars." Walsh says "I haven't got six hundred dollars where I can put my hands on it. I will have to wait until Nellie comes in." Nellie is Walsh's wife. When his wife returned, she got the additional six hundred dollars and the six hundred was then paid to Sweeney, to form Walsh's part of the sum which was to be paid to Fox to buy his obedience to the rule that his superiors must be protected. The following day Thompson again tackled Fox, but Fox had about made up his mind then that the game wasn't worth the candle and he told Thompson that he could not see it. He thought he would go it alone. That he would confess his guilt, tell the truth so far as he knew it and throw himself upon the mercy of the court. On Monday he came into court, pleaded guilty and told his story to the District Attorney. That you may imagine was a nervous night for Thomas W. Walsh, who was lying sick in bed and Sweeney who was still the Inspector up in his neighborhood and who lived

just a few blocks away, came to him that night and told him "Now, Tom, don't you worry getting a little bit nervous now about the man next higher up. Don't you worry. Sit tight, keep a stiff upper lip." Two days later, Captain Walsh, thinking that he was dying and wishing to ease his conscience, called for the District Attorney. A few days later, after he had made his statement to the District Attorney, he was in turn indicted and when he recovered sufficiently so that he could be produced in court, he came down here and pleaded guilty to the charge made against him. So you will see, gentlemen, that this whole conspiracy which these defendants had built up, toppled and fell with a crash, but through no fault of theirs. We shall submit to you and we shall produce the evidence that I have outlined, to show you that these statements which I have made to you are the facts. You will understand of course that I am merely making to you statements of what we intend to prove and you must take only the proof which comes from the mouths of witnesses as the facts, but when we have finished the proofs we shall submit to you, we shall leave our case in your hands, with the conviction that the testimony established that these four defendants in this case, in the Police Department of the City of New York, were recreant to their trust and that they entered into an agreement and a conspiracy

to obstruct and impede public justice, the very public justice which they had sworn as officers of the law to uphold. Thank you.

(The Court duly admonished the jury.)

THE COURT: I refrained from making a public announcement, because of the jury.

MR. SMYTHE: They are bound to know it. Your Honor is about to make some direction with regard to the defendants?

THE COURT: I have already made a direction that these defendants be taken into custody.

MR. SMYTHE: We except to the direction, upon the ground that it is in violation of Section 553 of the Code of Criminal Procedure, and that it is violative of the defendants' rights, this being a trial for misdemeanor, and that it is prejudicial to the defendants that they should be incarcerated from the close of the court till the opening of court, during the trial; prejudicial to their rights and their position and also is violative of their Constitutional rights.

THE COURT: The Court will make any provision convenient to counsel, to allow counsel to have access to them at any time they want to consult with them in the interval.

MR. SMYTHE: That is on behalf of all, the exception

which I have just made.

THE COURT: Yes.

(Adjourned until 10:30 o'clock on Wednesday, April
30th, 1913)

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Wednesday, April 30th, 1913.

The Court met pursuant to adjournment.

The People vs Dennis Sweeney and others, resumed.

MR. WHILMAN: I suppose the witnesses for both sides may be excluded from the court room during the hearing of the testimony?

THE COURT: Yes. I so order.

(All witnesses except those as to character and those who have been subpoenaed to produce papers, are excluded from the court room.)

(PEOPLE'S EVIDENCE)

T H O M A S W. W A L S H, called in behalf of the People, being duly sworn, testified as follows :

DIRECT EXAMINATION BY MR. CLARK:

Q What is your full name, Captain ? A Thomas W. Walsh.

Q And up to the end of 1912 what was your occupation?

A Up to the third of February, 1913, I was Captain of Police

Q How long had you been a member of the police force of the City of New York? A Nearly twenty two years.

Q How long had you been a captain ? A Going on seven years.

Q What was your assignment up to the close of 1912?

A Captain of Police.

Q Where? A At the 43rd Precinct -- 126th Street, No.

148 East.

Q That is between Lexington and Third Avenues? A Yes.

Q That is the 43rd Precinct station house, you say? A Yes.

Q What territory did the 43rd Precinct embrace? A From the north side of 116th Street to the east side of Lenox Avenue, south side of Harlem River to the East River at 116th Street.

Q And was the corner of 124th Street and Lexington Avenue in that district -- that precinct? A It was.

Q In what inspection district was the 43rd Precinct?

A The Sixth.

Q How long had you been captain in the 43rd? A From June 19, I believe until the time of my suspension.

Q June 19th of what year, A 1907.

Q At all times from June, 1907, until your suspension?

A Yes sir.

Q Did you know a patrolman named Eugene F. Fox? A I did.

Q And was he at any time under you in the 43rd Precinct?

A He was.

Q When was he first under you there? A He was there from the time I went in that precinct, June 19, until I believe it was July or June 10th, 1910, or thereabouts, the exact date I am not sure of.

Q And what happened to him at that time? A He with several other men were remanded by the Commissioner to patrol

duty and transferred to the 40th Precinct.

Q Where is the 40th Precinct? A 152nd Street and Amsterdam Avenue.

Q Is that also in the Sixth Inspection District? A It is.

Q Did you have any dealings with him other than the ordinary dealings between the captain and a patrolman? A I did.

Q And what were these dealings? A He went to several places in the precinct and collected money.

Q When did that begin? A Somewhere in 1907.

Q And had anybody been performing similar work for you before that, before Fox? A There had been.

Q There had been another man? A Yes sir.

Q And how many places were there, approximately, from time to time from which Fox was collecting? A Why, I could not tell the number just now. The amount averaged about four hundred a month to be divided between the Inspector and myself.

Q What did you do with this money when you got it? A I kept half for myself and gave half to the Inspector, taking out the twenty per cent for Fox.

Q Give us a little more clearly the method in which this money came to you -- that is to say, was there a list of places from time to time? A Fox had a list which he

would keep a record of and he would come in the evening, or whatever time it may be, strike off a number of places and hand me the money which that represented.

Q And at that time did he deduct this commission? A He did.

Q For collecting? A He did.

Q And the proportion of the whole amount which he reported as collected, did you turn over to the Inspector? A Forty per cent.

Q Beginning with 1907, who were the Inspectors with whom you had such dealings? A Inspector James F. Thompson, Inspector James Hussey, Inspector Murtha and Inspector Dennis Sweeney.

Q And did you have the same arrangement with each one of those men? A I did. But the amount was not the same all the time. That varied.

Q Do you mean the amount or the proportion? A The amount.

Q The amount would vary from month to month? A Yes sir. Some months it would be greater than other months. In the summertime there would be more money collected than there would be in the winter. Other times there would be more money from the ball games or something like that -- making it a little larger some months than others.

Q From what class of places were these collections made?

A Before 1910 from liquor dealers and a few dance halls, and after 1910, some ball games and a couple of dance halls and two disorderly houses I believe it was.

Q How many? A Two I believe.

Q Were there any hotels? A Yes sir, the Baltic was among them.

Q The Baltic Hotel? A Yes sir. When I say various disorderly houses, I only mean to include the Baltic Hotel. There was no other class of disorderly houses.

Q That was just a hotel? A Yes sir.

Q Was the Baltic Hotel known by any other name at any time? A During my time in the precinct it was known by three names.

Q What were they? A The Boulevard; then the Baltic; and then as the Avenel.

Q Where was that located? A Southeast corner of 124th Street and Lexington Avenue.

Q Do you remember the number? A 2025 to 2029 Lexington Avenue.

Q You mean 2025, 2027 and 2029 Lexington Avenue? A Yes.

Q And during the period from the first of January, 1908, until the end of 1911, from time to time, were each of these four defendants, Thompson, Murtha, Sweeney and Hussey, Inspectors in the Sixth Inspection District? A From what

dates?

Q From the first of January, 1908, to the year 1911?

A Until at least the 27th of July, 1912. From June, 1907, until December 1st -- at least December 31st, 1913 -- 1912 I mean to say.

Q 1912? A Yes sir.

Q Did you know this hotel, the Baltis, or the Boulevard or the Avenal? A I did.

Q It was in your precinct? A It was.

Q And in the Sixth Inspection District? A It was.

Q And as part of your police ~~xxxx~~ duties, did you from time to time inspect the place? A I did.

Q Did you know who the proprietor was during 1908 and 1909? A I did.

Q Who was it? A George A. Sipp.

Q And did you know of a change of proprietorship? A I knew of them but I did not know them personally.

Q That is, you did not know the new proprietors? A No.

Q Do you recall when it was that the management changed?

A I think it was October, 1910; I am not positive of that, but I think that is the time.

Q And after October, 1910, were the collections still received from that hotel? A They were.

Q Through Fox? A They were.

Q And did you know who was paying Fox? A George A. Sipp.

MR. WHEELMAN: That must be hearsay I suppose?

MR. CLARK: Well, all right .

Q How large a place was the Baltic or the Avenel or the Boulevard? A I think it had about sixty rooms.

Q Was there a liquor license there ? A There was.

Q How much was the collection made from this hotel during the years 1908, 1909, 1910 and 1911? A Every month they collected one hundred dollars. That was to go both between the Inspector and myself.

Q And of that one hundred dollars how much was retained by Fox? A Twenty dollars.

Q And how much was paid over by you to the Inspectors? A Forty dollars.

Q And during the period while these payments were made, was there ever a case of a conviction being obtained against the proprietors of the Baltic Hotel?

MR. STANCHFIELD: I object to that in behalf of the defendant Thompson, as incompetent, irrelevant and immaterial.

THE COURT: yes, I will sustain it as far as this witness is concerned. It may be competent to prove it in some other way.

MR. STANCHFIELD: The question was whether there was a conviction. How could this witness --

THE COURT: I sustain the objection. I am not prepared to

say that it is not competent if properly proved.

Q Were the charges which were made against people in the 43rd Police Precinct who were accused or against whom complaints were received to the effect that disorderly houses were being conducted, under your jurisdiction? A They were a long while, but afterwards they were turned over by me to the Inspector of the District.

Q When did that change occur? A Why, I think it was about a year ago.

Q So that up to the end of 1911 the handling of such complaints and the investigation of them and the prosecution of the offenders, was under your jurisdiction as Captain of the 43rd Precinct? A It was.

MR. WELLMAN: A year ago would be April, 1912.

THE WITNESS: As a matter of fact, they are always under the Inspector of the District; but I had no plain clothes men. For that reason we used to turn the duty of the plain clothes men over to the District Inspector. At no time were they not under his jurisdiction as well as mine.

Q And from time to time were complaints received by you against the Boulevard -- the Baltic? A They were.

Q And did you keep track of the investigation and reports that were made of such complaints? A I did, and made a monthly report, each month, as to the conditions.

Q And do you know whether or not prosecutions were begun

against the managers of that hotel at various times on the charge of disorderly house? A I believe Inspector Sweeney's men made one arrest there. I am not quite positive.

Q Prior to him had there been any? A There had.

Q And had you personal knowledge of the developments in the prosecutions which were begun against the management of that hotel? A None other than that the arrest was made. That is all.

Q Do you remember the 18th of December last, Captain? A I do.

Q Were you at Police Headquarters on the 18th? A I was.

Q How did you come to go down there? A I was directed to go there by the Chief of Police.

Q By "Chief" you mean Inspector Schmittberger? A Chief Inspector Schmittberger.

Q And when you went down there did you see anyone else whom you knew there? A I saw --

MR. STANCHFIELD: I object to the names. That question calls for yes or no.

THE COURT: say yes or no to that question.

A Yes.

Q Did you see any of these defendants there?

MR. STANCHFIELD: Objected to as incompetent, irrelevant and immaterial.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

A I ~~xx~~ saw Inspector Thompson, Inspector Hussey -- I cannot see from behind you there, Mr. Stanchfield --

MR. STANCHFIELD: Can't you remember without seeing the defendants?

A (continuing) and Inspector Sweeney. That was all. Thompson, Hussey and Sweeney.

Q Did you see Fox there? A I saw Fox there but I don't see him here.

Q There, I say, on that day? A I saw Fox there.

Q And at that time were inquiries made of you by any person in the Police Department? A There was.

Q By whom? A By Deputy Commissioner Dillen.

Q What was the subject of those inquiries?

MR. STANCHFIELD: Objected to as hearsay and as incompetent irrelevant and immaterial.

THE COURT: I will take the conversation. Objection overruled.

MR. STANCHFIELD: Exception as to each defendant.

A They were inquiring about the statement made by George

A. Sipp before the Aldermanic Committee earlier in the day.

Q When you say "they", whom do you mean? A Deputy Commissioner Dillen, Captain Porter and Chief Inspector Schmittberger.

Q They were all in the trial room? A They were all in

the Commissioner's office.

Q Were you in there alone? A At that time.

Q Did you see any of these defendants in there on that day? A No, not inside.

Q You did not see them inside? A Not at that time. They were not inside at that time.

Q Not when you were in? A No.

Q Did you at any time that day see them there? A I saw them go in right after I had reached the building -- they went in and come out.

Q That is, you had seen them go into the trial room before you went in? A Yes sir.

Q And saw them come out before you went in? A Yes.

Q Did you have any conversation with any of the three defendants whom you have mentioned, on that day? A I did.

Q With which one? A I think I spoke to the three of them but nothing regarding the case any more than to say "I see that fellow has done a lot of talking". I don't remember saying anything else.

Q Did you identify the person whom you referred to as "that fellow" any more definitely? A No -- meaning Sipp.

THE COURT: Was Sipp referred to in the conversation?

THE WITNESS: Not by name.

MR. WILLMAN: Then I think the words "meaning Sipp" should go out.

THE COURT: These words are stricken out.

Q Were you present when Fox was suspended from duty on that day? A I was, but I did not know that he had been suspended. I was present though.

Q Were you present when his shield was taken away? A I was in the building, but not present.

Q Not in the room? A Not in the room.

Q On the following day were you at Police Headquarters again? A I was.

Q When? A I was there in the morning and there in the afternoon.

Q And whom did you see there in the morning? A I saw three defendants -- the four defendants rather. I saw Mr. Rouss of the firm of Grant & Rouss.

Q In the morning? A In the morning. And I saw Fox.

Q Did you see any of the officials of the Police Department that morning? A I did. I saw the Police Commissioner.

Q That is, Commissioner Waldo? A Commissioner Waldo.

Q Did you have a conversation with him? A I did.

Q Was anything said in that conversation with regard to Sipp?

MR. STANCHFIELD: Objected to as incompetent, irrelevant and immaterial.

THE COURT: Were these defendants present?

THE WITNESS: Not when I was talking to the Commissioner. I was in the Commissioner's office.

THE COURT: I will take it.

MR. STANCHFIELD: Exception as to each defendant.

MR. WELLMAN: And I object to it on the ground that the defendants were not present.

THE COURT: I will take it. I do not think it is necessary for the court to state the grounds of the rulings.

MR. WELLMAN: I suppose we ought to state the grounds of our objections.

Q (Question repeated) ? A There was.

Q What was said?

MR. STANCHFIELD: The same objection.

THE COURT: same ruling.

MR. STANCHFIELD: Exception.

A The Commissioner accused me of going South on the steamer on which Sipp was. I did go South on the steamer but not with Sipp. And the Commissioner seemed to doubt that at first, but afterwards he believed it.

Q Were you down at Police Headquarters later that day?

A I was.

THE COURT: wait a minute now. Was that all of that conversation?

THE WITNESS: Well, he also spoke about being in the company of Sipp; and I told him that I did not associate with

Sipp. And seeing that I disabused his mind of the fact that he believed that I was an associate of his --

THE COURT: I will strike that conversation out and direct the jury to disregard it as not relating to this transaction set out in the indictment.

Q Were you down at Police Headquarters later that day?

A I was.

Q What time of day? A Three o'clock.

Q Did you see any of these defendants there at that time?

A I saw the four of them at that time.

Q Where was that? A In the outer room of the Fourth Deputy Commissioner.

Q Is that the room which is commonly designated as the Trial Room? A No. That is downstairs.

Q Downstairs? A Yes sir.

Q Were you subsequently in the upper room outside of the Trial Room? A No.

Q On that afternoon when you were down there at Police Headquarters did you also see Fox? A I did.

Q Whom else did you see there that afternoon? A Mrs. Sipp.

Q Who else if anybody? A I saw Dorian.

Q Who was Dorian? A Dorian was one of the owners of the Hotel Baltic.

Q That is, one of those who were interested in the man-

agement after Sipp left? A After he left, yes.

Q And did you see any one else? A I saw Inspector Sweeney there. He came in and went out again.

Q Were you called in again before the deputy Commissioner that afternoon? A I was.

Q What time of day was that as near as you can recall?

A In the neighborhood of three o'clock.

Q At any time that afternoon did you see a lawyer there -- a man whom you had known as an attorney? A That was in the morning -- counsellor Rouss. I saw him in the morning. The fact is, Mr. Clark, I was down there all day -- I never left at all.

Q Oh, you were down there all day? A Yes sir.

Q And who was it that you saw -- what lawyer? A Rouss.

Q And did you know of what firm he was a member? A I did.

Q What was the firm? A Grant & Rouss.

Q Did you have any conversation with him? A I did.

Q What was said?

MR. STANCHFIELD: Objected to as incompetent, irrelevant, immaterial.

THE COURT: I assume that the testimony is in furtherance of the conspiracy.

MR. CLARK: Either in furtherance or preparation therefor. I shall undertake to connect it subsequently with the defendants.

THE COURT: Objection overruled..

MR. STANCHFIELD: Exception.

A Rouss walked over to me and says "Inspector Sweeney told me to tell you to tell Fox to say nothing."

Q What did you say? A I told him I was no messenger and that I would not do it .

Q What did he say? A Well, he says "You are a friend of his, ain't you". I says "I am. " He says "Why don't you tell him?" I says "You tell him if you want him to be told." He says "I don't know him." I says "I will show him to you; he is sitting right there by the window ."

Q Did anything happen after you told him that? A Yes sir. Rouss walked over and took up the conversation with Fox.

Q You ~~xx~~ say you went down in the morning and saw the Commissioner? A Yes sir.

Q What time was this that this occurrence happened with Rouss, as you recall it? A To the best of my knowledge it was around two o'clock -- between one and two.

Q That is, in the afternoon some time? A It was just before I met Mr. Sipp.

Q Did you stay there quite late that day? A It was after six o'clock when I left.

Q Were you there when Fox went into the Commissioner's room to testify? A I could not say. I did not see him.

Q Do you remember anything else that happened on that day

down there between you and any of these defendants?

MR. STANCHFIELD: In that form I object to the inquiry as improper and incompetent.

THE COURT: He may say yes or no.

A I don't recall anything further.

Q Did you subsequently see Fox? A I did.

Q How soon? A I think I saw Fox around six o'clock.

Q I mean after you left Headquarters? A Oh, after I left Headquarters I saw him the next day.

Q Did you have any conversation with him next day? A No matter where I met him I always had conversations with him.

THE COURT: Then the answer is you did have a conversation?

THE WITNESS: Yes sir.

Q Do you remember that conversation or any part of it?

A May I ask the stenographer the date of that --

MR. STANCHFIELD: He does not ask you what you said.

Q You wanted to know the date? A Yes sir.

Q I am talking of the next day after you were down to Headquarters. That is the question. A I cannot remember.

Q Did you within a day or two of that time have a conversation with Fox? A I did.

Q Which you do remember? A Yes, I think --

Q For the purpose of refreshing your recollection the 18th was Wednesday, and the 19th was Thursday. Now, the

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question is, do you remember having a conversation with Fox within a day or two thereafter? A I remember a lot of dates, but I cannot just connect the dates now and I don't want to be wrong.

Q Within a day or two of the time when you were down at Headquarters, did you have any conversation with Fox about his attorney? A Yes sir I did.

Q How soon after? A The next morning.

Q And what was that conversation?

MR. STANCHFIELD: I object to that as incompetent, hearsay, and no foundation laid for its introduction and as irrelevant and immaterial.

THE COURT: Objection overruled. All this testimony had so far is subject to being connected.

MR. CLARK: Exactly.

MR. STANCHFIELD: Exception.

A I spoke to him about who his attorney was. And he said that he was going to take Rouss. I says "Have you made arrangements with him?" He says "Well, it is all right." I says "Who did you make the arrangements with?" He told me to say that it was all right. I said "I don't think that is a very good way for you to do it; you ought to find out positively who has engaged him, how much you have to pay and when you have to pay it." So he said he would. He went away and came back the next day and told me that he had been en-

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gaged by Inspector Sweeney . That night I sent for Inspector Sweeney and I asked him about it. Inspector Sweeney denied that he had engaged him and said that he would disabuse his mind of that. That was all the conversation that I had with him about that.

THE COURT: The conversation with Fox about the employment of Reuss.

THE WITNESS: With Sweeney . That was all the conversation I had with Sweeney.

THE COURT: The witness says that was all the conversation he had with Sweeney.

BY MR. CLARK:

Q Now, Captain, were you on active duty up to the time that your connection with the Police Department was severed?

A No, I reported sick on the Sunday following the 18th. Let me see, the 21st I believe .

Q The 21st was Saturday. Were you on duty Saturday?

A I was on duty Saturday night.

Q How late were you on duty Saturday night? A Until 12 o'clock midnight.

Q Did you then go home? A I did.

Q Did you ever go out on active duty again? A No.

Q From that time to this, what has been your health, Captain? A I have been sick in bed almost continuously.

Q From what diseases have you been suffering, Captain?

MR. STANCHFIELD: I object to that as irrelevant and immaterial, incompetent and hearsay; not the best evidence.

THE COURT: I will allow that.

MR. STANCHFIELD: Exception.

A From heart, kidney and liver .

Q Did you ever appear before the Aldermanic Committee yourself, Captain? A I did not.

Q Did you know of the arrest of Fox the following week? That is the week after the Aldermanic hearing, where Sipp testified? A I did.

Q When did you first know of it, Captain? A Why the 18th of December I believe.

Q The 18th of December was the day that Sipp testified? A Yes -- oh, he was suspended that day and I believe he was arrested the following Tuesday.

Q That is Tuesday the 24th? A Tuesday the 24th.

Q The day before Christmas? A Yes.

Q Did you see any of the defendants between the time when you were down at Headquarters and the time when Fox was arrested? A I did.

Q Which? A Inspector Sweeney.

Q Do you remember the date when you saw him, the day or the date? A Why, I think I saw him every day just around that time.

Q Was that so after you were taken sick? A Why, he

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came about three times a week, up until I had testified to Judge Whitman.

Q Up to the time you saw Judge Whitman, he came two or three times a week? A Yes.

Q Where did you see him, Captain? A At my house.

Q Always? A Always.

Q From the time when you reported sick that Saturday night, the 21st, or Sunday morning, the 22nd, were you up and around or were you in bed for a while? A I was in bed almost continuously. Two or three days that I was out. One day that I came out and went to the trial of officer Hartigan and another time before the grand jury.

Q And when Sweeney came to see you, where did you see him? A In my bedroom.

Q In your bedroom? A Yes .

Q While you were in bed? A Sometimes I was in bed and sometimes I was sitting up in the ar chair.

Q Now during the period before Fox was arrested, did you have any conversation with him which you recollect?

A With Fox?

Q No, with Inspector Sweeney? A Oh yes.

Q When did the conversations occur, do you recollect, captain? What dates? A I couldn't say what day. About three times a week though.

Q This is prior to the time when Fox was arrested. Fox

was arrested on the 24th? A Oh, I think I had about two
e conversations with him.

Q Do you remember what was said on those occasions? A Re-
lative to the case was all we ever spoke about.

Q About what case, Captain? A About the Sipp case.

Q Sipp? A Yes.

Q When did you first see him after you knew of Fox's ar-
rest? A I think I saw him Christmas Day.

Q Did you have any conversation with him on that day?

A Yes, I spoke to him about getting a bondsmen to get Fox
out.

MR. STANCHFIELD: I think the witness should say first
whether he remembers the conversation and then be asked to
give it.

BY THE COURT:

Q Did you have a conversation with Sweeney on that day?

A I did.

BY MR. CLARK:

Q Give us the conversation as fully as you can remember
it, Captain.

MR. STANCHFIELD: In behalf of all the defendants other
than Sweeney, we object to the introduction of that evi-
dence, on the ground that it is hearsay, incompetent and no
foundation laid for its introduction.

THE COURT: The Court will receive it as against the de-

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fendant Sweeney absolutely and as against all of the defendants provided it is subsequently connected.

MR. STANCHFIELD: To that ruling we except, and upon that I ask your Honor now to hold that that testimony must be limited to Sweeney.

THE COURT: I decline so to hold. I will take it for all purposes, against all defendants, subject to its being connected. If it is not connected, I will entertain a motion to strike it from the record.

MR. STANCHFIELD: Exception.

Q This is the conversation on Christmas Day, Captain?

A The conversation on Christmas Day was to the effect that we ought to try and get --

THE COURT: The last juror says he cannot hear you.

THE WITNESS: The conversation was that in effect we should try and get a bondsman for Fox, and Sweeney said he would do all he could, and I told him I would do likewise and that was about all there was to that conversation.

Q Did you yourself do anything about getting bail for Fox that day? A Yes.

MR. STANCHFIELD: same objection to that evidence.

THE COURT: Same ruling.

MR. STANCHFIELD: Exception.

A THE WITNESS: I got a young man named Moore to go see another man named Tom Lloyd and ask them to see what they

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could do about procuring bail .

Q Who is Tom Lloyd? A He is a man who keeps a liquor store on 125th Street.

Q Was Fox released on that day? A I believe he was.

Q That was Christmas Day ? A I believe so.

Q Did you see him on that day? A No, I did not.

Q When did you next see him? A On the 26th, the next day.

Q On the 26th, did you have any conversation with Fox?

A I did.

Q This was Thursday, the day after Christmas? A I did.

Q Do you remember that conversation? A I remember Fox wanted to --

MR. STANCHFIELD: He asks whether you recollect it.

Q Do you remember anything about that conversation? A I do.

Q Will you tell us what you recollect of the conversation?

MR. STANCHFIELD: I make the same objection to that conversation, hearsay --

MR. BATTLE: On behalf of all the defendants.

MR. STANCHFIELD: Certainly, all on behalf of all of the defendants.

THE COURT: same ruling.

MR. STANCHFIELD: Exception.

A I remember that Fox wanted -- I can't remember it.

Q For the purpose of refreshing your recollection, if possible, Captain, this was the day after Christmas and the day was Thursday. Do you remember whether you had any conversation that day or any day about that time, with Fox, in which the name of Sipp was mentioned? A I did on the 26th day. Sipp -- at least Fox came to me and said they could get rid of Sipp if they could get a little money together, and I says "How much money do they want?" He says "They want two thousand dollars." I says "I can't get two thousand dollars for you." "Well, he says, we want to keep him quiet; that is the only way to do it." I says "I think it would be to the interests of all of us if we did keep it quiet." I says "All right, I will see what I can do", I told him to come back on the 27th, and on the 27th he did come back.

Q Before he came back, did you see any of these defendants Captain? A I did.

Q Which one did you see? And when? A I saw Inspector Sweeney. The only one that I spoke to about anything during the trial or during this matter is Inspector Sweeney.

Q When did you see him, that night or the following day, can you remember? A That night.

Q And did you have a conversation with him? A I did.

Q Do you remember that conversation? A I told him --

MR. STANCHFIELD: Whether you remember it first.

A I remember that Fox wanted -- I can't remember it.

Q For the purpose of refreshing your recollection, if possible, Captain, this was the day after Christmas and the day was Thursday. Do you remember whether you had any conversation that day or any day about that time, with Fox, in which the name of Sipp was mentioned? A I did on the 26th day. Sipp -- at least Fox came to me and said they could get rid of Sipp if they could get a little money together, and I says "How much money do they want?" He says "They want two thousand dollars." I says "I can't get two thousand dollars for you." "Well, he says, we want to keep him quiet; that is the only way to do it." I says "I think it would be to the interests of all of us if we did keep it quiet." I says "All right, I will see what I can do", I told him to come back on the 27th, and on the 27th he did come back.

Q Before he came back, did you see any of these defendants Captain? A I did.

Q Which one did you see? & And when? A I saw Inspector Sweeney. The only one that I spoke to about anything during the trial or during this matter is Inspector Sweeney.

Q When did you see him, that night or the following day, can you remember? A That night.

Q And did you have a conversation with him? A I did.

Q Do you remember that conversation? A I told him --

MR. STANCHFIELD: Whether you remember it first.

THE WITNESS: Yes sir.

Q What was the conversation?

MR. STANCHFIELD: Now I make the same objection, in behalf of all of the defendants, other than Sweeney.

THE COURT: Same ruling.

MR. STANCHFIELD: Exception.

A I saw Sweeney that night and I told him that Fox had been there and made a proposition for two thousand dollars to send Sipp away, and he wanted to know -- I asked him if he would help me to get it. He says "I don 't like that kind of work." Well, I says, " it is better for you and I and all concerned that we do it before we have to pay many dollars more." So he stopped to think for a while. He says "Well, I will see what I can do. " He left the house and I saw Fox the next morning. I asked Fox if he had heard anything more himself and he said no, that he was still anxious and the lawyers were pressing him for the money. I told him that I would do the best I could. Well, he says "They are hollering Murder, Watch. You will have to get it soon", he says "or there will be something doing." So that was all he said that day.

Q Did you subsequently see the defendant Sweeney? A I did.

Q How soon, Captain? A That was the --

Q This was the 27th that you say you saw Fox, Friday?

A Friday; this was the 26th that I saw Sweeney though, and he said that he would do the best he could. I saw him again that night and I asked him if he had got --

Q Was this Saturday night? A No, this is Friday night.

Q Friday night is the 27th? A 27th; it was on Friday night.

Q Friday night you saw Sweeney again? A Friday night.

Q What did you say and what did he say?

MR. STANCHFIELD: The same objection.

THE COURT: Same ruling.

MR. STANCHFIELD: Exception.

A I asked him if he had got the money and he said no he hadn't got it. He was trying to do the best he can. So I asked him what he was going to do. Well, he says "I will do all I can." I says "I am working as hard as anybody else. If the rest of them done as well as I have, there would be no trouble."

Q Is that all you remember of that interview, captain, this Friday night? A That is all I can remember.

BY THE COURT:

Q With whom was that conversation? A Inspector Sweeney.

BY MR. CLARK:

Q Did you see him again? A I did, on Saturday.

Q On Saturday? A Yes.

Q Did you have a conversation with him on that day? A I

did.

Q Do you remember it? A I do .

Q What was it, Captain? A I met him -- he came to the house -- Inspector Sweeney, and as soon as he came in, I says, "Have you got that", meaning the money. He says "That will be all right." Well, I says "Fox has been here hel-
 lering Murder, Watch again this morning." This was about eleven o'clock that he came there . He says "You tell Fox to keep his hands off . Everything is arranged all right; attended to; will be fourteen hundred instead of two thousand."

Q He told you -- A Would be fourteen hundred instead of two thousand. For Fox to keep his hands off it, so I -- I asked him when it was going to be delivered. He says "Why, you will have it tomorrow morning or so and --

MR. SMYTHE: What was the date of the conversation?

THE WITNESS: On the 29th.

Q Was this Sunday the 29th? A Sunday the 29th.

Q We have just got through the conversation of Saturday. You are now going to Sunday? A Going to Sunday. The Inspector, as I understood it, had a day off that day.

Q Sunday? A Sunday.

Q Did he see you that day? A He did.

Q Again at your house? A For me at my house that morn-

ing.

Q You had another conversation which you remember? A I do.

Q Will you give us that conversation?

BY THE COURT:

Q When you say "Inspector" you mean the defendant, Sweeney? A Yes, I mean Sweeney on all of the conversations.

Q You think you had better say Sweeney. Then there will be no doubt in the minds of anybody.

MR. STANCHFIELD: same objection.

THE COURT: Yes. The same ruling.

MR. STANCHFIELD: Exception .

THE WITNESS: I told -- I asked him ^{when} ~~what~~ he was going to deliver it. He said "You will have it tomorrow morning or so", and he went away and he came back that night again.

Q This is Sunday night? A Sunday night and he said that he would have that money in the morning. I says "How will I get it?" He says "I will send it over with Johnny Hartigan;" so that was all of the conversation there was to it.

Q Was anything said as to amount that night? A Yes, he said -- he said he would send over eight hundred. That I owed one hundred and fifty and I could put mine to it.

Q You were to add the one hundred and fifty to the eight hundred? A Yes.

Q Was there anything said in that conversation about anybody else? A He told me the rest would contribute theirs.

MR. STANCHFIELD: I object to that as leading and incompetent, and hearsay, as against any of these other defendants.

THE COURT: Objection overruled .

MR. STANCHFIELD: Exception.

Q Did he say -- I first want to exhaust your independent recollection on that, Captain? A I remember also that he said that same night when he came back, that he had just come back from Inspector Hussey, whom he had left at 42nd St. and Broadway and got his . He would have the rest of it in the morning and send it all over with Hartigan.

Q Who is Hartigan? A He is the patrolman that was assigned to the Inspector's office, in the Sixth Inspection District Office.

Q That was Sweeney 's office at that time? A Yes.

Q You have referred several times in these conversations to the others, Captain. Was anything ever said about the others, further than to refer to them as the others?

MR. STANCHFIELD: Now I object again to that as leading.

THE COURT: Objection overruled .

MR. STANCHFIELD: That is incompetent, hearsay, irrelevant and immaterial.

THE COURT: Objection overruled .

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MR. STANCHFIELD: Exception.

THE COURT: You may answer.

A The only time I ever recollect any name mentioned was in one case when I Inspector Sweeney referred to Inspector Hussey in Silsbee's restaurant, and on another time where he had left Inspector Hussey at 42nd Street and Broadway, just prior to coming to my house .

Q That was this Sunday night you just told us about?

A Yes.

Q The following morning did you see Hartigan? A I did.

Q Where? A At my house.

Q What occurred on that occasion? A Hartigan came in with an envelope. He handed it to me and stated that the Inspector sent that over .

MR. BATTLE: Object to statement made by Hartigan.

THE COURT: I will take the conversation with Hartigan.

MR. STANCHFIELD: And an exception to the ruling.

MR. BATTLE: May I ask if the District Attorney claims that Hartigan --

MR. CLARK: I claim Hartigan was the messenger of Sweeney, as shown by the conversation of Sweeney the night before; that Sweeney was the conspirator and the conversation made by the agent is admissible here.

MR. BATTLE: No such doctrine on criminal agency.

THE COURT: I think the theory on which this is being taken must be clear to all of us, and your objections and theories are clear to the court. The reason why I have refrained from indicating the grounds is in order that the trial may be expedited .

MR. BATTLE: I object to any statement made by Hartigan, on the ground that it is hearsay and incompetent and not binding in any way on the defendant Sweeney or any of the other defendants, and I except to your Honor's ruling.

THE COURT: Objection overruled.

BY MR. CLARK:

Q Now go on with the further conversation please? A I took the envelope from his hand. As I did so he said "The Inspector sent that over to you . " I opened it in the presence of Hartigan and I told my wife to get me one hundred and fifty dollars .

Q Was there anyone else present when Hartigan came there? A My wife was present.

Q She was in the room with you? A She was in the room with me.

Q You opened the envelope ? A I did .

Q What did you find in the envelope? A Eight one hundred dollar bills.

Q Then you say you spoke to your wife? A I did. I asked her to get me another one hundred and fifty dollars, and she

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went out and got one one hundred dollar bill and a fifty dollar bill, which I put with the eight hundred and handed it back to Hartigan, with the statement "Johnny," I says "I know I can trust you. You be careful and count it when you get downtown and see that the same amount is delivered." He said "All right."

Q Did you hand it to him loose? A No, it was sealed. I sealed it in his presence there.

Q Put it in an envelope ? A Yes.

Q Did Hartigan know where Fox was?

MR. BATTLE: I object to that.

THE COURT: Objection sustained .

Q Did you say anything to Hartigan about what should be done with the nine hundred and fifty which you were giving him?

MR. BATTLE: I object to that on the same ground as before and on the ground that it is leading also.

THE COURT: I allow the question.

MR. BATTLE: Exception.

A I told Hartigan that Fox's trial at Police Headquarters on was off. That it may be over and it may not. For him to go to Police Headquarters first and if he didn't find him there, go on down to the Criminal Court Building and he would surely find him there, and he went down.

THE COURT: Do not tell us.

Q You did not go down with him? A No.

BY THE COURT:

Q Is that all of the conversation you had with Hartigan?

A That is all.

BY MR. CLARK:

Q Did you see Hartigan again? A I did, that evening.

Q Did you have any talk with him? A He merely came to the house.

MR. BATTLE: I object to any conversation with Hartigan.

THE COURT: I will take it.

MR. BATTLE: That calls for yes or no.

A I did.

Q What was that conversation?

MR. BATTLE: I object to that as incompetent, irrelevant and immaterial. It is hearsay and not in any way binding on any of the defendants and it is after this so-called agency if any such existed, had been terminated, and not in any way binding on any of the defendants.

THE COURT: Objection overruled.

MR. BATTLE: Exception.

Q What was the conversation, Captain?

MR. BATTLE: I ask that it be noted, if your Honor please, that the District Attorney does not claim Hartigan was a conspirator. It is stated he was an agent.

MR. CLARK: I have not claimed he was not a conspirator.

THE COURT: It is not necessary to make claims about it. Just have the stenographer take down exactly what occurs.

A He came to my house and told me that he had delivered the money and that he had just heard Fox was out.

MR. BATTLE: I move to strike that out on the same grounds as before.

THE COURT: Motion denied.

MR. BATTLE: Exception.

Q Did he say anything about to whom he had delivered it?

A He told me that he had delivered the money to Fox's brother, in a toilet in City Hall park, I believe he said. I am quite sure.

MR. BATTLE: same motion to strike that out on the same grounds as before.

THE COURT: Same ruling.

MR. BATTLE: Exception.

Q When did you see Sweeney again? A At that time do you mean?

Q About that time, yes, after that . You see this is Monday the 30th? A Yes.

Q The day that Fox was discharged, you say? A Why, I think I saw him the next day.

Q Did you have any conversation with him? A I did. Every time I met him I talked with him.

Q Do you remember the conversation you had at that time?

THE COURT: With Fox?

MR. CLARK: Did I say Fox? I thought I said Sweeney. I intended to ask Sweeney.

THE COURT: This is a conversation with Sweeney on Monday.

Q On or after Monday, did you have any conversation?

A Monday the 30th?

Q Monday the 30th. The day Fox was discharged, did you have any conversation with Sweeney? A I believe I did.

Q Do you recall the conversation? Was it on Monday or the following day? Do you remember when it was when you next saw him?

THE COURT: Was not the conversation with Hartigan had on Monday?

MR. CLARK: Yes.

Q It was Monday that you sent Hartigan downtown? A Yes.

BY THE COURT:

Q And Monday night that you spoke to him about what Hartigan did? A About what Hartigan did.

Q Then, was it the same day or the day following that you had a conversation with the defendant Sweeney? A I couldn't say.

Q Was it one or the other of those days? A It was either one of them I am quite sure.

BY MR. CLARK:

Q Do you remember the conversation which you had, Captain?

A No, I can't remember it.

Q Do you remember having any conversation with him about that time, relating to Sipp? A With Sweeney?

Q Yes. Withdraw the question for a moment. At that time, Captain, were you reading the newspapers -- following the case in the newspapers? A I was.

Q Then I will repeat the question. Do you remember at that time having any conversation with Sweeney, with regard to Sipp? A Just about that time my wife may have read the papers to me. I did not read them myself, and she read an article in the paper where Sweeney --

MR. BATTLE: I object.

THE COURT: She did read you an article in the paper?

THE WITNESS: Yes.

Q Did you subsequently see Sweeney? A I did.

Q Did you have a talk with him? A I did.

Q What was the talk? A I says "I see that you --"

MR. BATTLE: I ask that the time be fixed.

Q Can you fix the date, Captain? Now the day that Fox was discharged was Monday the 30th? A Yes.

Q Of course if you cannot fix the exact date, fix it as nearly as you can? A It was within three or four days of

that time.

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Q During that week? A During that week.

Q What was said? A Why, I said to him "I see that you have been going out, making more trouble." He says "What do you mean?" I says "What did you go and get those affidavits for? Now we have got trouble enough." He says "I got no affidavits." I says "The Press says you have." He says "I am not responsible for what they say in the press." I says "All right, if that is the case I will drop it, but I thought you were foolish enough to go and get those affidavits." He said "I have nothing to do with them." Of course that was all that was said that day.

Q Was anything further said about what the affidavits were? A It was I that said it -- got those affidavits against the two girls.

Q Affidavits about two girls or against two girls? A Against the two girls that Sipp was mixed up with, and he denied that he did it.

BY MR. CLARK:

Q Did you discuss the nature of the affidavits with him?

A I did not, because I had heard about --

MR. BATTLE: I object to it.

THE COURT: Yes. Nevermind.

Q You had read about some affidavits, you told him? A I

told him my wife had read about them.

Q Had read you about some affidavits? A Yes.

Q Who had made the affidavits? Did you tell him that?

A Why, he denied making the affidavits and I dropped it at that time, but I took it up again later on.

MR. BATTLE: I understood he said that conversation was during that week.

THE COURT: Three or four days after Fox was discharged.

Q Did you have any further conversation with him with regard to those charges? A I did.

Q Can you fix the date exactly? A I think it was the second day after.

Q A day or two after anyway? A Yes.

Q What was that conversation? A I had read the paper that day myself, and the Inspector came in. I says "I thought you told me that you didn't make those affidavits."

Q He said -- A I said to him "I thought you told me that you didn't make those affidavits out." He said "I didn't think they would go as far as that." I says "How did you come to do it anyhow?" He says "I was in my office -- at least I was down in Chief Inspector Schmittberger's office and he asked me what I was doing about that case up there. I was told him I wasn't doing anything much, but I had got a couple of old affidavits. He says, what are they?"

He says I got a couple of affidavits against a couple of girls that Sipp was with. He says -- Schmittberger is alleged to have said, that is just what we want." So Sweeney said that he went on back to his office and that when he got there he had a telephone message to report forthwith to Deputy Commissioner Dougherty, and from that the affidavits found their way down to the Mayor's Office.

Q Was that before or after you had heard of Sipp's being arrested, or just about the time? A I think it --

Q When was it with regard to Sipp's arrest? A In regard to the conversation?

Q When was this conversation? A Why, I think it was after.

Q After you had read about it? A Yes.

MR. BATTLE: After what?

MR. CLARK: After he had read about it in the paper.

MR. TALLEY: He said his wife read it.

MR. CLARK: I beg your pardon. He said he himself had been reading the paper that morning.

Q Was there anything said in the conversation about Sipp's having been arrested? A I don't think there was. I don't recall.

Q Did you subsequently see Sweeney again after that time?
A I did.

Q Did you have any conversation with him further about

that matter of the girls ? A No, I didn 't dwell any further on that matter. I got disgusted with him the way he was acting. I didn't dwell on that subject any further.

THE COURT: I will strike out the last part if you gentlemen desire "I got disgusted with him. "

MR. BATTLE: I will ask that it go out.

THE COURT: Yes, I will strike it out.

Q Well, did you discuss with him at all the appearance of the girls before the Grand Jury ?

MR. BATTLE: I withdraw my request to strike it out.

THE COURT: That will remain in the record.

A No.

Q Did you discuss with him at all the possibility or probability or any subject with regard to Sipp's returning to New York, before he came back ? A Why, we discussed the matter up until the time I read it -- heard about him trying to get the affidavits.

Q I am referring, Captain, now to the later time, after the time you have mentioned when Sipp had been arrested ? A I don't recall.

Q That is after Sipp had been arrested and before Sipp appeared before the Grand Jury, did you see Sweeney during that period? A I did .

Q Did you have any conversation with him during that period? A I recall on one occasion talking to him and asking

him if there wasn't anything that could yet be done to save us from further trouble.

BY THE COURT:

Q Did he say anything in response to that statement by you? A Why, he said that he would do all that he could. He didn't know what could be done just now at the time.

BY MR. CLARK:

Q Then afterwards did you learn of Sipp's appearing before the Grand Jury? A I did.

Q After you learned of that, did you have any further talk with Sweeney? A I can't recollect it.

Q Well, you knew of Fox being arrested, did you not? A I did.

Q After he was arrested, did you have any talk with Sweeney? A Why, the only thing I recall is where we proposed to get up a little fund to take care of his wife.

Q Before coming to that period, you remember Fox was arrested? A I do.

Q And was confined in the Tombs? A I do.

Q Do you remember how long it was he was confined in the Tombs? A I think four days.

Q During the period while he was confined in the Tombs, did you have any conversation with Inspector Sweeney? A I had conversations, but I can't recall them.

Q Did you have any conversation with him with regard to

bail for Fox? A I did.

Q What was that conversation? Was that during those four days at some time? A It was.

Q Do you remember approximately what date it was? For the purpose of refreshing your recollection, Fox was arrested on the 15th, the second time after his indictment, he was arrested on the 15th of January, which was a Wednesday?

A I recall that as soon as he was arrested I was notified. Somebody brought me word that he had been arrested, to try and get him out. I started around to see who I could find to bail him out, but I couldn't anybody.

I went to the Inspector and told him. He said he would --

Q You did? A I went to Inspector Sweeney -- I sent for him and he came to me. I asked him to do all he could and he said he would. We talked about getting some Surety Company to advance the bond and I also went to Lloyds and different people.

Q You say you went to the, Captain. Were you up and around? A I mean that I sent to them.

THE COURT: Get all the conversation with Sweeney.

Q After you spoke to him about this, did you have another conversation with him about the bail for Fox? A Yes, I had a conversation with him about it. I think it was on the 29th.

Q The day that he was released on bail, Captain, Saturday

the 18th? A The 18th. Well, it was on the 17th.

Q The day before? A The day before .

Q Did you see Sweeney on that day? A I spoke to him on that day and he said that Fox would be taken care of. The next day was a Saturday. In the morning I got a five hundred dollar bill and sent it with Billy Moore to Tom Lloyd, to try and get him to secure a bail bond . In the afternoon, I think it was in the neighborhood of twelve o'clock, Sweeney came back and said that everything had been attended to. I asked him when . He says " maybe Monday morning." This was on a Saturday I am speaking of now. I told him -- I says "He will never stay in there until Monday morning. There will be some shouting done before that if you don't get that fellow out. Now he says " He will have to put up with it. That is the best we can do. I will see if anything better can be done," he says . The five hundred dollar bill was delivered back to me that afternoon and Fox was released, I believe, at five o'clock.

BY THE COURT:

Q From whom was the bill delivered to you? A Billy Moore brought the bill back to me .

BY MR. CLARK:

Q The man to whom you gave it, brought the bill back you had given him? A Yes . May the court permit me to correct

that?

THE COURT: Yes.

THE WITNESS: I am not quite positive about Moore bringing it back. It was either Moore or Hartigan.

THE COURT: Does that exhaust that particular subject?

Q Do you remember anything further on that subject, Captain? A That is all.

THE COURT: We will take a recess till two o'clock.

MR. TALLEY: If your Honor please, before we take a recess, certain court records in the possession of the District Attorney were subpoenaed. They have not been produced, as Mr. Clark informed me this morning. I would ask that your Honor direct they be produced at two o'clock.

MR. WHITMAN: I have been subpoenaed to produce the records of this court. They are not in my possession.

THE COURT: I will hear you both, but one at a time.

MR. WHITMAN: I have been subpoenaed to produce indictments which are now pending in this court, and which are in the possession and custody of the Clerk of the Court of General Sessions. Of course we shall object to their introduction when the time comes.

THE COURT: Why not address your subpoena to the legal custodian of the papers?

MR. TALLEY: I am ~~not~~ not speaking of any records that belong in the custody of the Clerk of this Court. They are re-

records of a court other than this, which are in possession of the District Attorney . The records of the Fifth District Magistrate's Court, which we subpoenaed from there, and which we were informed were in the possession of the District Attorney's office .

THE COURT: If the District Attorney has any papers in his custody, I have no doubt he will produce them in response to your subpoena, and then I will rule upon their competency later.

(The Court duly admonished the jury and a recess was taken until two o'clock P. M.)

(AFTER RECESS)

DIRECT EXAMINATION OF THE WITNESS THOMAS W. WALSH RESUMED BY MR. CLARK, as follows :

Q As I recall it, we were discussing just before recess the conversation which you had with Sweeney on the day when Fox was bailed out. That was the 18th of January of this year. Did you see Fox after he was bailed? A I did.

Q Did you have any conversation with Fox when you saw him? A I did.

Q Can you fix the day when you saw him? A Two or three days after.

Q Two or three days after he was bailed? A Two days after I think.

Q Well, where did you see him? A At my house.

Q What was the conversation?

MR. STANCHFIELD: The same objection.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

A Relative to Fox being convicted --

Q This was a talk with Fox? A Yes sir, -- his going to prison, what would happen to him.

Q Fox said something to you about that? A I spoke to Fox about it.

Q What was said as near as you can recall it? A He said that he feared that ~~he~~ if he was indicted he would be convicted and sent to prison.

Q This was after he was indicted. This was after he was bailed out in January that I am speaking about? A Oh, I did not understand you, Mr. Clark.

Q He was bailed out on the 18th of January. That was Saturday? A Yes sir.

Q That was the day we were talking about. Now, did you see Fox after that day? A I cannot recall. I cannot recall seeing him.

Q Did you have any conversation with Fox between the time when he was indicted and bailed out and the time when he pleaded guilty? A I did.

Q Do you remember about when that was. The date when he

was bailed out was the 18th of January. The date when he pleaded guilty was the third of February. You say you had some conversation during that period? A I did have a conversation, several of them.

Q Can you fix the date definitely? A I cannot.

Q Some time during the week after he was bailed out or the following week, or was it in both? A I had a conversation in both.

Q What was the earlier conversation? A I don't quite remember when the conversation was.

Q I did not ask when. Give us the substance of it. A It was about three days after he was bailed out.

Q He came to your house, did he come to your house? A He did.

Q And did you have a talk? A I did.

Q What was that talk so far as you recall it? A I think I can recall it, but I cannot quite understand what you mean.

Q What did he say and what did you say? A Well, I have had two or three talks with him.

Q Well, the first time you saw him after he was bailed out? A I think you refer to the one where I was speaking about having some money advanced for the care of his wife and family.

Q That was the first conversation you had with him after

he came out? A I am not sure whether it was the first or not, but it was one of them.

Q Give us that conversation as fully as you can.

MR. STANCHFIELD: Objected to as not evidence that is legitimately in support of any overt act charged in the indictment, and as incompetent, irrelevant and immaterial.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception .

A Fox came in and he told me that he was very much worried. I says to him "Why are you more worried now than any other time?" He says "I know that they will send me away." I says "An indictment don't mean that they are going to send you away." Well, he says "I feel as though they do, and I want to know where I am going to get off at when I am sent away -- who is going to take care of my family." I says "I suggest that you see your lawyer," and mentiont that he ought to get ten thousand dollars at least for you; I will take care of my end of it; let him and the others take care of theirs. That was what the nature of the conversation was at that time.

Q Did you see him after that ? A I did.

Q Did you have any further conversation with him? A Why, I asked him if he had said anything about what I spoke to him of. And he said yes, that Reuss was going to take the

matter up, and the different Inspectors were going to contribute -- meaning the four Inspectors involved; he was going to take the matter up and see what they were going to do about it. And they agreed -- I afterwards learned from Inspector Sweeney, -- on ten thousand dollars.

THE COURT: I think that last should be stricken out.

MR. CLARK: I will agree to strike out from "they agreed" on.

THE COURT: The words "meaning the four Inspectors involved" will be stricken out. And from "they agreed" is stricken out.

MR. STANCHFIELD: Will your Honor emphasize to the jury in regard to the striking out.

THE COURT: I take it, gentlemen of the jury, you understand that when the court says that a matter is stricken from the record it means that the matter is not to be considered by the jury.

Q After you had that first one of these talks about what was going to happen with Fox, did you see Sweeney again?

A I did.

Q How soon after, Captain? A It was the day after or the following day -- either one.

Q And did you have a talk with him? A I did.

Q What was said in that talk? A Well, I was always talk-

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ing about the case --nothing else. Just at that particular time it was about the raising of the ten thousand dollars for Fox.

MR. SMYTHE: I move to strike out the latter part.

THE COURT: Motion granted.

Q Did you tell him what Fox had told you? A I did.

Q Tell us what you said to Sweeney and he said to you?

A I told Sweeney about the suggestion, the raising of the money for Fox's wife.

THE COURT: What did you tell him?

Q What did you tell him? A I told him ^{that} ~~himself~~ he came to my house and was much alarmed over what might happen to him upon conviction, and I told him that it was only fair that he should get something in case he was convicted and sent to prison, and that the only way we had of saving ourselves would be to make some proposition to him for to give him something. And we decided on ten thousand dollars.

Q And what did Sweeney say to that? A Well, he said he would see what the others would say.

MR. SMYTHE: Then, that it was decided upon, goes out?

THE COURT: Yes.

Q Tell us what you said, or Sweeney said, relative to any amount, if any was named? A I told Sweeney that I thought they ought to raise ten thousand dollars. He said all right, he would see what he could do about it.

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THE COURT: The words "We decided upon ten thousand dollars" are stricken out, but not the last part of the witness's answer. The last part remains in relative to the ten thousand dollars.

THE WITNESS: I thought of another part of the conversation, your Honor.

MR. STANCHFIELD: With reference to what the others would do, may that be stricken out?

THE COURT: No, I will take that.

MR. STANCHFIELD: Exception.

Q Tell us the other part? A When I first spoke to Sweeney, they agreed to raise two thousand dollars.

THE COURT: Don't say "agreed" to raise".

Q Proceed? A He told me that they would raise two thousand dollars, and he put it in different parts so that I am unable to remember just what part he put it in, but it amounted all told to fifteen thousand dollars that was to be raised -- five one time and two another and three another. It was afterwards changed to ten thousand dollars.

Q Was there anything said by you or Sweeney as to how it was to be raised? A Sweeney said it was to be raised by the four Inspectors and myself.

Q Did he mention which Inspectors they were? A No, he did not name them.

Q Did you subsequently have any further talk with Sweeney

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about the amount of cash to be raised for Fox? A I don't recall having any other conversation.

Q Well, did you ever pay any money to anyone? A I did.

Q To whom did you pay it?

MR. STANCHFIELD: Objected to as incompetent, irrelevant, immaterial.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

A You are asking me regarding all that I paid or just the last amount?

Q I am talking now about whether you made any payment in connection with this arrangement for Fox that you have spoken about? A Oh yes, the last arrangement I did -- I paid six hundred dollars.

Q To whom did you pay that? A Inspector Sweeney.

Q And when did you pay it. If you are trying to refresh your memory on dates, the date when Fox pleaded guilty was Monday February third. The Saturday preceding was the first of February. And the time when he was bailed out was the 18th of January -- which was two weeks before. A On the night of March --

Q You don't mean March, do you. He pleaded February the third.

MR. BATTLE: I object to the prompting of the witness.

THE COURT: He may state that Fox pleaded guilty February third. He may ask him having that in mind can he fix the date..

Q Was it before or after Fox pleaded guilty that you paid this money to Sweeney? A It was before.

Q How long before? A The Friday before.

Q What time of day was it? A About nine o'clock at night.

Q To whom did you say you paid it? A To Inspector Sweeney.

Q Did you have a ny talk with him that night? A I did.

Q What was that talk? A It was about raising the bonds -- raising the money, rather, for Sweeney -- not Sweeney but Fox. I was home in bed sick. Sweeney came in my house and he wanted to get the money.

Q Did he say anything about the amount? A Yes. He wanted six hundred dollars. I only had five hundred dollars in the house at the time and my wife was at the church. I told him he would have to wait until she came back. About nine o'clock she returned, and I said to her "Hellie, you will have to get another one hundred dollars; the inspector wants one hundred dollars more."

Q Was the inspector in the room at the time? A He was. He was sitting ~~in~~ in the chair at the foot of the bed. She went outside and got the one hundred dollars, brought it back, and handed it to him. As he left the room he remarked "That is the worst of having the damned women around." I says "That is only my wife and you have no reason to fear her." And she left the room.

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Q And had you given him already the five hundred dollars?

A No, she gave him both.

Q She gave him the five hundred dollars, too? A Yes, sir.

Q When did you get the five hundred dollars to give it to him? A I had that some days in the house. I was after selling a little piece of property in Jersey that I had, and that was still remaining in the house.

Q Did you have the five hundred dollars by you when the Inspector came to you that evening? A Yes, sir.

Q You had that where you could reach it? A Oh, I had it where I could reach it. But I did not touch it.

Q Had anything been said between you and Inspector Sweeney prior to that as to that evening -- Friday evening? A He said that the amount would be six hundred dollars then but Monday morning I would have to put up fourteen hundred dollars more.

Q When was that said? A That Friday night.

Q Had you had any conversation with him before Friday night about his coming around Friday night? A On Thursday he told me when the matter was first brought up, that we would have to get together and get that money for Fox.

Q So that you were expecting him when he came Friday night? A I was.

Q You had an appointment. And did you see him again after that? A After Fox's conviction?

Q Well, this was Friday night before Fox pleaded guilty. Now, the following Monday, February 3rd, Fox pleaded guilty. Did you see him at all after that time? A Yes, sir, I saw him Tuesday night.

Q That was the day after Fox was convicted? A Yes, sir.

Q Did you have any talk with him then? A Oh, I remember is he came over and put his hand on my forehead and said "Keep a stiff upper lip, old man, you will be all right."

Q Where were you then? A In my bedroom.

Q Were you sick in bed at the time? A Yes, sir.

Q Did you see him again? A No.

Q How long after that was it that you had a talk with District Attorney Whitman? A Two nights.

THE COURT: How long after?

THE WITNESS: The second night after. Oh, I want to change that. That was on Monday night that I spoke to the Inspector.

Q That is the night that Fox pleaded? A Yes, sir. And it was Wednesday night that I had talked with Judge Whitman.

Q You sent word to Judge Whitman, did you? A Yes, sir.

MR. STANCHFIELD: I object to that as immaterial.

Q And he came to your house? A He did. I wanted to get that off my mind.

Q At that time were you very ill? A Yes, sir.

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MR. STANFELD: I move to strike that previous answer out.

THE COURT: The statement that he wanted to get it off his mind is stricken from the record. The rest will stand.

Q You said you were the captain of the 43rd there, from some time in 1907 until the end of 1912. When were you transferred, do you remember? A I was transferred to the 43rd Precinct--

Q I am talking about your transfer at the end. Was it after you reported sick? A It was after I reported sick. I was transferred, I think, around the 5th of January.

Q And during the period while you were captain of the 43rd, how many inspectors were successively in the Sixth Inspection District? A Four.

Q What four were they? A Inspector Thompson, Inspector Hussey, Inspector Murtha and Inspector Sweeney.

Q Were those the only four that were up there during that period?

THE COURT: Was there any one other than those four?

THE WITNESS: I don't remember any other.

Q And was there any other inspector up there at any time to whom you paid any share of this collection money? A There was not.

Q And did you pay during the period while those men were respectively there, to those four defendants in turn?

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A I did.

Q Each man? A I did.

Q Do you remember more or less definitely the period during which those four men were there? A I do.

Q Approximately, what was it? A Inspector Thompson was there from the day I went there in June, 1907 until 1909.

THE COURT: To what date?

THE WITNESS: I cannot tell you the date, your Honor.

Q Who succeeded him? A Inspector Hussey.

Q Was he there for some time? A He was there for about nearly two years.

Q And who succeeded him? A Inspector Murtha.

Q And was he there for any length of time? A I think he was there for about a month and a half.

Q Who succeeded him? A Inspector Sweeney.

Q And he was the last one under whom you served there?

A The last one. Those dates I am not positive of at all.

Q You cannot fix the months? A No.

Q But you are sure of the order in which they were up there; that is, Thompson, Murtha and Sweeney? A Yes, sir.

Q From the time that Fox first began to collect for you -- when did he cease to collect. When were the last collections you received? A January the first, of this year.

Q You mean up to January first? A Up to January first.

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That is, he did not collect for that month, -- just up to including the month of December.

Q Was there ever any variation in the rate which was allowed to Fox for commission for collecting? A During the period of Inspectors Thompson, Hussey and Murtha were in the district they received each forty per cent of what I got -- of the total amount which I collected; and Fox received twenty. When Inspector Sweeney came there, Inspector Sweeney did not have any man of his own in my precinct, so he collected forty-five and I collected -- let us see -- Fox got fifteen per cent and the other was divided between us.

Q Did you ever have any conversation with Sipp about the payments which he was making and about his hotel? A None other than that he was to receive full protection for what he was doing.

Q That is, he was to receive full protection on account of those payments? A Yes, sir. That is, I refer now -- I am speaking about the business end. Of course, I had other talks with him, --

Q Yes, but I am speaking particularly with regard to the money that was paid. A Yes.

Q When you say "For protection," was there ever any word used in addition to "protection" -- any other discussion as to the purpose of the payments? A Protection for him

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to run a disorderly house.

Q Protection for a disorderly house? A Protection for them to run a disorderly house.

Q You said a moment ago that the rate which was allowed to Fox was changed after Sweeney came in because did not have any one collecting in your precinct. A What I mean by that is, he did not have anybody in my precinct collecting, to my knowledge. I understand since --

MR. STANCHFIELD: Objected to.

Q Never mind what you understand since. But that is what he told you. A That is what he told me.

MR. CLARK: That is all. You may cross-examine.

CROSS-EXAMINATION:

BY MR. WELLMAN:

Q Captain, your health is really pretty good just now?

A I feel as if my health is very bad, very much impaired at the present time.

Q You go out every day? A I do not.

Q In an automobile? A I do not.

Q Or, nearly every day? A I have been out twice this season -- three times.

Q What? A I have been out three times this summer.

Q You have been down here oftener than that. A I said, counsellor, that I have been out three times.

Q How long had you been a Captain when you went to the 41st precinct? A Two months.

Q Two months? A Yes.

Q And did you start in collecting right away from these disorderly houses you spoke about, in that precinct? A I guess I did.

Q Then within two months of the time you got authority as captain to collect, you began to collect? A Yes.

Q By the way, you are not a captain now? You were dismissed from the force, weren't you? A Yes.

Q You found Fox a patrolman there, didn't you? A I did.

Q And you put him in plain clothes and made him a collector for you, is that right? A That's right.

Q Up to that time, as far as you knew, he was an honest policeman, wasn't he? A So far as I know.

Q And you gave him the instructions to collect for you in order that certain disorderly houses in your precinct should be allowed to disobey the law and exist, isn't that right? A That's right.

Q And paid him a certain commission? A I did.

Q You kept him collecting from these disorderly houses and dance halls, until he was taken away? A I kept him collecting from a disorderly house until he was taken away.

Q And you kept him at it for nearly five years? A Probably a little more.

Q A little more than five years. During this time inspectors were coming and going, but you were always there, you and Fox, collecting regularly for over five years?

A Yes.

Q Did you suggest to the inspectors that you would give them part of what Fox was giving you? A Yes, they knew all about it.

Q You did --

MR. WHITMAN: Let him answer.

A (continuing) I didn't ask them. They knew all about it.

MR. WELLMANN I object and ask to strike it out.

THE COURT: Strike it out.

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Q So then you suggested to them that they take -- as you had previously suggested to Fox, that they take part of it, is that right? A I don't quite get that.

Q You told me that you suggested to the inspectors, one after the other as they came along, that they should take part of what Fox was giving you. A I didn't understand you.

Q Do you want to take that answer back? A What is that?

Q Do you want to take your answer back?

MR. WHITMAN: I object to that form of question.

THE COURT: I will allow that.

THE WITNESS: I ought to state that the inspector was informed of what I was doing and they instructed me to continue it.

Q Oh, you told them what you were doing? A Yes.

Q That you were taking money from Fox, is that right?

A Taking money from Sipp through Fox.

Q Sipp was not the only one you were taking money from?

A He was one.

Q He is the one that they instructed you to go on taking money from, is that right? A He among others.

Q Thompson was there when you got there, wasn't he?

A Which Thompson?

Q Inspector Thompson. A In that precinct?

Q Yes. A Why, I believe the same day he went to the

precinct -- the same day I did. I think it was the same day. That, or a day or two before.

Q You say to this jury that he instructed you to take it?

A I say to this jury that he knew all about what I was doing and permitted it.

Q I ask you to answer my question, if you can, yes or no, not volunteer. You say that Inspector Thompson instructed you to take this money and share it with him, do you, yes or no? A I can't see much difference in answering yes or no.

Q No, no. There is a good deal of difference between the answers yes and no. Which is it?

MR. CLARK: I object to the form of the question, "instructed" if the Court please.

THE COURT: I will let him say whether he instructed him or not to take it. What is the answer?

THE WITNESS: My answer will be then, that I was told by the--

Q No, no. I want an answer.

THE COURT: Wait a moment. I think he has got a right to say that, whether he was told or not. That will be an answer to your question. Answer it.

THE WITNESS: I was told by the inspector these places where I could collect from and send Fox there to do it.

Q You ~~said~~ said Fox had a list -- a list of a couple of

dance halls, two disorderly houses, some liquor dealers, and so forth? A I say it again.

Q Did you give him the list? A I believe I did.

Q And Sipp was on that list? A He was one on the list.

Q I understand you, and in order that there may be no misunderstanding about it, you got from Sipp a hundred dollars a month for nearly five years while you were there, either from him directly or indirectly, in some way, a hundred dollars a month came? A I got from Fox.

Q Well, you got from Fox as from Sipp? A Yes, sir, eighty dollars a month.

Q Now, Captain, you recollect on the 18th of December you were called before the Police Commissioner in a hearing, and together with many other witnesses you gave your testimony just as you are giving it here. Do you recollect that? A I do. I recollect.

Q Do you recollect that one of the Commissioners asked you this question: "On this question of whether any money was passed, did you ever hear that anybody was accused of taking money from Sipp? Did you ever hear that he had offered anybody any money, either directly or indirectly?" Did you answer: "No." A If I did, I made a mistake.

Q Did you answer that? A I don't recall it now.

Q You don't recall what you answered to that question?

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A I don't.

Q On the 18th of December last ? A I do not.

Q Was the answer true? A First of all I was not asked by the Commissioner.

Q Was the answer true if you made it? A Was what answer true?

Q The answer I have read to you. A It was not true.

Q What? A It was not true.

Q Did you intend to lie about it? A I did not.

Q You did not intend to lie about it? A No.

Q You intended to tell the truth about it? A I did.

Q Very well, then. Did you understand this next question in which you intended to answer truthfully? "You never had any reason to suspect any member of the force, either in the district or in your precinct, of anything else" And did you answer "I certainly did not"? A I answered that way -- I told them an untruth.

Q You thought you were telling the truth? A No, I didn't say that.

Q What? A I say if I answered that way I told an untruth.

Q Did you answer that way? A I can't say now.

Q You don't remember ? A I don't remember.

Q But you do remember you were trying to tell the truth?

A I was trying to tell the truth.

MR. WHITMAN: May I interrupt just a moment, if your Honor please. I think the time ought to be fixed and the examination ought to be fixed. Examined by the Police Commissioner or by the Deputy.

THE COURT: The examination at Police Headquarters on December 18th?

MR. WELLMAN: That is right.

MR. WHITMAN: Before Dillon, was it?

MR. WELLMAN: Deputy Police Commission Dillon. There were several there.

THE COURT: If you want any of these answers read, indicate it. I don't want to break up your line of examination.

MR. WELLMAN: We hear him quite well now.

Q On this main subject were you not interrogated by Mr. Porter, referring to Sipp and your acquaintance with him. Did he say to you and ask this question: "Did Sipp ever make any complaint that he had to bring up a hundred dollars" -- referring apparently to the hundred dollars a month, and did you answer: "No, sir; the first hundred dollars that I ever heard about was what I saw in the papers coming down this afternoon." A I believe I did.

Q Well, that was the afternoon papers, publishing what Sipp was supposed to have testified before the Aldermanic Committee, was it not? A Yes.

Q The Curran Committee? A Yes.

Q And you told Mr. Porter at that hearing, that the first time that you had heard about any hundred dollars of Sipp paying, was when you read it in the newspapers that afternoon coming down to the Police Headquarters, is that right?

A I think it is.

Q I thought you told us you were trying to tell them the truth. A I am trying to tell the truth.

Q You said you were trying to tell them the truth at Police Headquarters. A If I said that I misunderstood you. I said I was trying to tell the truth.

Q You misunderstood the question. A You won't confuse me, Mr. Wellman, if you stay there all day, because I am trying to tell you the truth.

THE COURT: What he says now is that he was trying to tell you the truth.

Q I asked you was it true or false, and you said it was false if you said it, and I said "Well, did you say it," and you said you didn't know. You were trying to tell the truth, and I understood you were telling the truth then. Why didn't you intend to tell the truth there? A Tell the truth where?

Q At Police Headquarters on December 18th. A I may have on some questions and may not on others.

Q I want to know on these questions. A You will have to ask me each one of them until I find out which one you

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want.

Q I have read them to you. A I don 't know which ones.

Q Shall I read them to you now? A I have tried to answer truthfully.

Q I am asking you if you were trying to tell them the truth. Now, you might as well answer it, because you can't shake me any more than I can shake you. A I am not trying to save you because you are able to save yourself very well.

Q Your voice is increasing.

MR. WHITMAN: I object.

Q Were you trying to tell the truth to the Deputy Commissioner on the 18th of December? A As far as I remember I was.

Q Then, were these answers that I read you, especially this one just now about the first time that you had heard about any hundred dollars from Sipp was when you read it in the newspapers that afternoon -- was that true? A That was not true.

Q Then you deliberately lied about it? A I did not deliberately lie.

Q That is the way it reads. A I understand what you mean.

Q The first hundred dollars that I ever heard about was what I saw in the paper, coming down this afternoon. I thought you told us you had been taking it from him for five years. A I didn't mean to lie.

Q Then when you made that remark, you had forgotten that you took it for five years? A No, I did not forget it.

Q Every month? A I did not forget it.

Q Well, let's see then. You were trying -- I don't want to misquote you. You were trying to tell the truth. Am I right in that? A I tried to tell the truth.

Q Then I ask you whether or not Deputy Commissioner Dougherty, on page 147, asked you this -- and this refers to the inspectors: "Did you ever pay any money to any member of the force except Fox?" And did you answer "No, sir, I did not." A I don't remember Commissioner Dougherty asking me that question.

Q Well, I am reading you from the stenographer's minutes.

A It is possible, but I don't remember him asking it.

Q Is that answer, if you made it, true or false? A What is that answer again?

Q Did you ever pay any money to any member of the force except Fox, and did you answer "No, sir, I did not"?

A That is not true.

Q It is not true. Then if you answered it, you answered it false? A If it is what?

Q If you made that answer, it is not true. A It was not true. I paid several of them.

Q You have told us here you have been paying inspectors for four or five years. I want to know if you what you told

Deputy Commissioner Dougherty -- when you told Deputy Commissioner Dougherty you had done so, which is true, what you are saying now or what you said then? A I say now that I have paid several of them.

Q Then what you said then was not true? A If I said it then it was not true.

Q Then we are to believe what you say now and not believe what you said then?

MR. WHITMAN: I object to that, if your Honor please.

MRS. WELLMAN: I withdraw it, if there is any objection.

Q I call your attention to one more question and answer on this same subject, relating apparently to inspectors, page 35. "You never had any reason to suspect any member of the force, either in the District Office, or in your precinct, or anywhere else," and did you answer "I certainly did not?"

A If I made that answer, it was not true.

Q Did you intentionally say what was not true about it?

A I did not.

Q You intended to tell the truth then? That is what we come right back to. A I did.

Q And at that time you did tell the truth, didn't you?

A I did not.

Q Then you did not fulfill your intention. How do you explain it, if you wanted to tell the truth, and intended to, that you made any answer like that? A The only explanation

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I can make to that is that I was very sick at the time, and nervous, and I can't recall just exactly what the questions were which were put to me.

Q Oh, I see. And you think your nervousness perhaps made you, so that when they asked you whether you paid any money on the police force, you could not quite understand them. You had forgotten about these five years on account of your nervousness? A I haven't forgotten very much about it, and I think I have told everything I knew about it.

Q Let's see if you do. You told us to-day that you talked with Sipp and in your talk with Sipp you said to him he would or was to have full protection for what he paid. That was the understanding between you, is that right? A As far as I was concerned, it was.

Q Do you recollect what you said to the Police Commissioner on that subject, page 38? Do you remember Mr. Porter said "Did you ever hear that he, Thomas Sipp, said to anybody else that he was being hounded by the police, or anything like that" and did you answer "A couple of times he tried to tell me he was being hounded by the cops down in 116th street, and I said 'Sipp I don't want to discuss this matter with you at all' and would drop it. He thought they ought to give him a show to run what he called a legitimate." Did you make that answer? A I believe I did.

Q What? A I believe I did.

Q Were you trying to tell the truth then? A I did tell the truth then?

Q Were you trying to tell the whole truth then? A I did tell the whole truth then.

Q You did? A I did.

Q Did you tell them that Sipp had an understanding with you that he was to be protected for this money? A I never had any agreement to protect Sipp on 116th Street.

Q Did you tell them he had an agreement to be protected anywhere else, for this money? A That was not in answer to the last question. If you want me to answer this --

~~question~~

Q You will answer this one. Didn't you tell the Commissioner that, or Deputy Commissioner, that you had no arrangement with Sipp, or understanding, that the money he paid for protection? A I had no such understanding with him.

Q One of the last answers that you told Mr. Clark, as I took it down -- I could hear you -- ~~that~~ you had an understanding with Sipp in a talk with Sippi that he was to have full protection for what he paid? A Yes.

MR. WHITMAN: If your Honor please, I object to the misquotation of the testimony. He said he was to have full protection for the place in 124th Street, which is an entirely different place.

MR. WELLMAN: I am not speaking of 116th Street now.

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MR. WHITMAN: That was his answer to the question.

MR. WELLMAN: Mr. Whitman, you did not misunderstand me.

Q I said that when you were down at the Commissioner's, you said you didn't say anything about 116th Street, having any agreement with them, but now I ask you if when you were down before the Commissioner, you said anything about your arrangement with Sipp that he was to have full protection for the money he paid. A I had no arrangement with Sipp in 116th Street.

Q I didn't say you did. I am leaving out 116th Street. A Then in that case I had no arrangement with him.

Q Did you tell them that you had any arrangement on 124th Street, that he was to have protection? A No, I did not.

Q You told the jury a moment ago you were trying to tell them the whole truth. A I didn't tell them anything about 124th.

Q Didn't you tell the jury that you were trying to tell the Commissioners the whole truth? A I did.

Q Were you trying to tell the whole truth? A I was.

Q Why did you not tell them about this agreement that you had with Sipp for five years, that he was to have full protection at 124th Street, if you were trying to tell them the whole truth? A I can't seem to understand you, Mr.

Wellman.

Q Can't you? A No.

Q I am sorry. You told Mr. Clark that you did not tell the Police Commissioners about your intimacy with Sipp. That is so? A I did.

Q But you were intimate with Sipp, weren't you? A Yes, I spoke to him about four times in my life.

Q Now you intend the jury to believe that, do you? You wish them to believe it? A I can prove that to the jury, if they wish it.

Jacksonville

Q Well, you went down to ~~Jacksonville~~ with him on the Clyde steamer? A I went down with many others on the same steamer.

Q You had adjoining staterooms with him, 30 and 32?

A That's right.

Q And you were at Jacksonville ten days, weren't you?

A That's wrong.

Q How many days were you there? A Five.

Q Five? A Five.

Q Five days. Only spoke to him four times in your life. You sat at the same table with him? A I couldn't help it.

Q You made arrangements with him to go down with him?

A I did not.

Q Then he made it with you? A He did not.

Q You mean to say that it was an accident that you had rooms adjoining? A No, it was no accident at all.

Q His wife went and your wife went? A His wife made

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arrangements with my wife.

Q The wives made the arrangements? A That is how it was.

Q You had never spoken to him but four times in your life?

A I was in his company four times in my life.

Q He had called on you at your country place with his wife? A I believe he was at the country place twice.

Q And spent the night there? A Yes.

Q You have never spoken to him but four times in your life?

A That is what I said, counsellor.

Q Your wife and his wife are intimate friends, are they not? A They were, and as far as I know, are to-day.

Q Were you asked at page 34, by one of the Commissioners what Sipp's general reputation was, and did you say that you had heard practically that he was a degenerate? A I did.

Q A degenerate. You know what that means, don't you?

A I believe I do.

Q That he was pervert in his sexual relations? A Yes.

Q Then you knew his reputation was a degenerate, and you had him at your house? A I knew that that day.

Q Let me hand you what you said, and ask you whether you said this. I won't repeat it. Will you hand it to him, please, with the record. Did you say that of him before the Police Commissioner when you say you were trying to tell them the whole truth?

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(The paper handed the witness contained the following words: "His reputation is that he kept a disorderly house, and I heard it said that he was -- pardon the vulgarity -- a cock-sucker. I have heard that." Pg 34).

MR. CLARK: Before you answer, let us see it.

MR. WELLMAN: I want the Judge to see it, if you please.

THE COURT: Show it to the counsel.

THE WITNESS: Doctor Upton is also here.

THE COURT: He may say whether he ever said it. Say yes or no. (handing the witness).

MR. WELLMAN: I will show you in the original record.

THE COURT: Just yes or no. Did you ever say that of him?

THE WITNESS: I did.

Q You did? I would like the jury to see it.

THE ~~XXXXXX~~ COURT: Is there anything else written on that?

MR. WELLMAN: On the back of it.

THE COURT: Just hand it to the jury that way and ask them to look only at the one side. (the paper was handed to the jury).

Q Now to be fair to you, I want to read to you the next question and answer. The Commissioner said to you: "You don't say that of your own knowledge;" that is written in there, and you said "No." Then the thing was "But that is his reputation," to which there seems to be no answer. I say that in justice to you. You only mean that is his reputation;

without any knowledge of it. Now, after Sipp had testified before the Aldermanic Committee, and after you had been called on before the three Police Commissioners, as I have called your attention, you did everything in your power to get Sipp out of the way, didn't you? He had been intimate with your family. You knew about this reputation. You had been taking money from him for five years and he had told the Aldermanic Committee something about it, but left you pretty nearly out of it? That is true? A Yes.

Q You know that before the Aldermanic Board he left you out of it practically? A Yes.

Q And you did what you could towards keeping him away, didn't you? Yes or no, what you could towards keeping him away? A I will give you an answer that will probably satisfy the jury better.

THE COURT: Answer his question. Did you do what you could towards keeping him away?

A I did not.

Q You did not do what you could? That is, you may have done more. I understood you to say that you said -- we won't tell who it was, contributed by just now, but you sent nine hundred and fifty dollars to him, didn't you? A That's right.

Q Now, did you send that to him to keep him away. A I sent that to him to keep him away.

Q Keep him away? A Yes.

Q That was part of what you could do then to keep him away, wasn't it? A That was part of it.

Q Then when you found that Inspector Sweeney was getting up affidavits, which if they were put in court would bring him back, you tried to dissuade him from doing it, didn't you?

A Dissuade Sweeney?

Q Sweeney from doing it? You tried to dissuade him from going on with those affidavits about Sipp's immoral character?

A I tried to dissuade Sweeney?

Q Yes. A Certainly not. I knew it was too late for Sweeney to dissuade him then.

Q You have told us about find fault with him and getting disgusted? A I did.

Q So that much you did for Sipp in addition to the money?

A Yes.

Q What else was there that you didn't do? You said ~~that~~ you didn't do all you could. What did you refuse to do about keeping him away? A I refused to do absolutely anything for him. He testified before the Aldermanic Committee.

Q No, no. What else did you refuse to do is the question, for Sipp, to keep him out of the way. A I done nothing for Sipp, only--

Q Only what you have told us? A I would like to answer that question, if you please, Mr. Wellmann

Q I beg your pardon. A Your question --

Q I don't mean to outyou off. I might do so; if I do, call my attention to it. A I refused to contribute any money, except to assist my associates, and that is one reason why I claim I did refuse to help him in any manner. I haven't seen Mr. Sipp since the 18th day of Devenber, when he testified before the Aldermanic Committee. Now, if I was trying to help him, I would have done something in that respect.

Q So what you were doing was to help your associates, thereby meaning the four on trial here? A That's it.

Q Just as you are helping them now? A I am not helping them now.

Q You were then doing this just to help them? A That's all.

Q Who are you trying to help now? A Myself.

Q Myself? A Yes, sir.

Q Now, then, when Sipp came back and testified about Fox, didn't you try to do everything you could to help Fox? It was getting nearer to Captain Walsh, wasn't it? A I didn't do anything to help Fox.

Q I thought you told us you contributed six hundred dollars to keep his mouth shut. A Didn 't you say just a minute ago that when he testified or came back, I done that?

Q I said after Sipp came back and testified against Fox, and Fox was indicted, did you do everything you could to save Fox? A Up until Fox was indicted, yes.

Q That is you--

MR. WHITMAN: If your Honor please, may I interrupt just a moment. He is confused in indictment and conviction.

THE COURT: Mr. Walsh, go slower. Don't argue with counsel. Listen to the question and then tell the facts.

Q You understand that, is that the right answer? Up to Fox's indictment you did what you could to help him? A I did.

Q After he was indicted you tried to get him a bond, too, didn't you? A After he was indicted?

Q Yes. A I believe I did.

Q And you argued a good deal with Sweeney about it, that Sweeney ought to help to get him a bond, didn't you? You have told us about it. QA I did.

Q Do you recollect saying that you gave five hundred dollars to somebody to try and find a bondsman for him?

A I do.

Q After he had been arrested? A Yes.

Q Do you recollect you told us you gave six hundred dollars contribution, so he would stand trial? A I do.

Q And then you tried to help him before he was indicted, and after he was indicted, didn't you? A Yes.

Q And did everything you could for him? A Yes.

Q Now, then, when he turned State's evidence and told about you, then everything changed in your mind, is that right? A Nothing changed in my mind.

Q It didn't? A No

Q You ceased to help him and you began to look after yourself, is that right? A I ceased to help him? I have not ceased to help him any I could.

Q Two days after he pleaded guilty -- Fox pleaded guilty the third of February. The 5th of February you started in, to protect yourself, didn't you? A Yes.

Q And as you say, you sent for the District Attorney? A Yes.

Q Now, you knew the only way you can protect yourself was by trying to put it higher up, isn't that right? A I couldn't say that that was the only way that I could do it.

Q Did you expect by confessing that the District Attorney-- the honorable District Attorney, that he was going to let you out free because you confessed the wrong you had done for five years? A I didn't expect anything of the kind.

Q You knew the only way you could get free from this man, was to give him something of more importance than yourself-- give him something higher up? A I might have the same opinion that the other four defendants had.

Q I am asking you if that is not so. A I am telling you the truth, Mr. Wellman. I could have had either my choice of standing trial or doing what I did.

Q Ah, ha! Of course you could have your choice of standing trial.

MR. WHITMAN: I object. He is not putting a question.

MR. WELLMAN: I my answer.

Q Did you not know that the only way that you could go free as far as the District Attorney was concerned, was by involving somebody higher up?

MR. WHITMAN: I object to the question. He could not know it, if your Honor please. The form of the question is improper.

Q Well, did you believe it then? A Did I believe what?

Q Don't I speak loud enough? A I am not questioning you, Mr. Wellman. I don't mean to be impudent. The only thing is that I can't hear very well to-day.

Q Can't hear very well? A I have been speaking a lot--

Q I am shouting. A I know you are shouting, but I am trying to answer.

Q Do you mean to say that you did not understand --you did not believe that the only way that you could expect the District Attorney to accept your testimony and let you go free was because you would give somebody higher up into his possession? A I believed that that would be the only way he would accept my testimony.

Q You did believe it? A That 's the only way.

Q That is just what I have been asking.

MR. WHITMAN: I beg your pardon. Now, if you Honor please, I object to that remark. He was asking if he thought he would go free. He has not answered yes to that.

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Q Then you came down and pleaded guilty. You were indicted weren't you, and you came down to the court and pleaded guilty didn't you? A I did.

Q Were you sentenced? A No, I was not.

Q You were not? You pleaded guilty to the indictment which I hold in my hand, which charged you with accepting ^{on} money from Fox ~~from~~ the first day of April, 1911? Do you recollect that? There is no question about it?

MR. WHITMAN: We will concede it.

Q On the 3rd of April, 1911. Now, you were taken before the Grand Jury, weren't you? A I was.

Q That same day? A The third?

Q The same day you pleaded guilty to that indictment -- the 24 day of February? A I didn't go before the Grand Jury on that day.

MR. WHITMAN: I can straighten you out on that. He made ^{before} a statement ~~for~~ the Grand Jury before he was indicted.

Q On all of that you didn't go before the Grand Jury?

A I did.

Q I have referred to that indictment of the 3rd of April, 1911, not the date of the indictment, but the date of the charge that you received the money from Fox, the bribery charge.

THE COURT: Third of February?

MR. WELLMAN: Third of April, 1911.

MR. WHITMAN: That is, the crime was committed.

Q I hold in my hand now a copy of the Grand Jury minutes supplied by the Court to us, if your Honor please -- to some of the counsel by Mr. Justice Goff, and I ask you if before the Grand Jury you did not testify that at this time, the first part of April, 1911, you had turned the money -- a portion of the money that Fox handed over to you, to Captain or Inspector Sweeney? A The 3rd of April?

Q Yes. A I recall since that--

Q No, no. No, not since. We will get to that.

THE COURT: Did you say that before the Grand Jury?

MR. WHITMAN: If you remember.

Q Did you oner about the 5th --between the first and the fifth of April, 1911, accept money from that officer Fox -- Eugene Fox. Did you answer "I did," before the Grand Jury?

A I did.

Q "And during the last three years, have you accepted money monthly from the hotels variously called Boulevard, Braddock, and the Averell, from Eugene Fox?" Did you answer "I have"? A I believe I did.

divide

Q "Did you ~~share~~ the portion which you received with Inspector Dennis Sweeney?" Did you answer "Yes"? A I believe I did.

Q "Did you pay Dennis Sweeney between the 1st and the 10th

of the month of April a half of the portion which you received from Fox for the protection of the Avernell Hotel, variously called the Boulevard, Braddeock and the Avernell? And did you answer "I did". A I believe I did.

Q How you know, don't you, that you have discovered since that Sweeney had never come to your precinct at that time?

A I did.

Q So that that testimony, although it might be unintentional was absolutely false, that you gave to the Grand Jury?

MR. WHITMAN: I object, if your Honor please. Not absolutely false. It would be false with regard to the date, that is all.

THE COURT: I think your question should be limited to the date.

Q In regard to ~~xxxxxx~~ the date -- A I have learned since--

Q (interrupting) No, no. It was then false as regards the date? A Don't catch what you mean.

Q As regards the date, your testimony that you gave before the Grand Jury was absolutely false, was it not, because Sweeney had never even come to your precinct? A It was false.

MR. WHITMAN: As regards the date?

THE WITNESS: As regards the date.

Q I am not now concerning myself as to the date between the first and tenth of April. "Did you there, monthly, for three or four years last past, divide with him -- that

is Sweeney-- the money that you had received -- collected for the protection of various disorderly resorts in your precinct?" And did you answer "I did"? A I did.

Q Well, now, it is not true. You did not, for three or years? Sweeney was only in your precinct for ~~thirteen~~ a year and five months, isn't that true? A If that is true.

Q Had you then forgotten that you had given hardly anything or not anything in those three or four years that you told the Grand Jury you gave it to Sweeney? A I didn't testify for that purpose.

Q I ask you to answer my question. When you said that for three or four years you had been paying it to Sweeney, and when it appears that Sweeney had only been there a year and five months, had you forgotten of Thompson and Murtha? A If I made such a statement, I made a mistake.

Q Why, you seem to have been making mistakes everywhere you testified.

MR. WHITMAN: I object.

THE COURT: Objection sustained.

MR. SMYTHE: Exception.

Q When you tell this jury that for three or four -- if you testified that for three or four years last past, you divided the money which you received and collected for the protection of these various disorderly houses, with Sweeney, that it was false? If you said it, it was false? A It was

not false.

Q It was not true? A It was not false.

Q Well, it was not true, was it? A It was simply a mistake that I made.

Q Just a mistake. Of three or four years, is that all? You had forgotten Murtha and Thompson and Hussey then?

A I didn't mean to forget them, if I did.

Q You meant to bring them in, did you then? A I meant to tell the truth then as I would now.

Q If Sentence were suspended over you then, wasn't it?

MR. WHITMAN: If your Honor please, I object.

THE COURT: I will allow him to say.

MR. WHITMAN: Could not have been. He did not plead.

Q Well, sentence is suspended over you now, isn't it?

MR. WHITMAN: It is not, if your Honor please.

BY THE COURT:

Q Have you yet been sentenced? A I have not.

BY MR. WELLMAN:

Q You have not? You have not yet been sentenced?

MR. WHITMAN: Mr. Wellman, at that time he had not pleaded. He was not under conviction at all.

MR. WELLMAN: But now that is why I withdrew the other. You are entirely accurate about it.

Q You understand then, if you don't make good, you are to be sentenced any time, is that right?

MR. WHITMAN: I object, if your Honor please.

THE COURT: Objection sustained.

MR. SMYTHES: Exception.

Q I will ask it this way. Have you been promised immunity by the District Attorney yet? A I have been promised in a way.

Q You have been promised? A If I told the truth and nothing but the truth, I would get immunity.

Q If you told the truth, and the whole truth, and nothing but the truth, you would get immunity. That is, you would go free? A He didn't say that I would go free.

Q You testified against Hartigan, didn't you? You know what immunity means, to go free, doesn't it? A I don't understand it that way.

Q You don't? What do you understand immunity to be?

A Well, I understand immunity to be that some consideration is shown for the testimony given in a court of justice. Now, what the District Attorney will do, I don't know.

Q That is what you think a man gets when he gets immunity?

A That is what I think.

Q So you don't think you are quite free yet? A I do not. I am not quite free until the Judge discharges me.

Q And did you feel that, when you testified that you had given the money to Sweeney for three or four years, before the Grand Jury? A Did I feel that?

Q Yes, that you were not quite free yet? A I was not.

Q Do you think you are getting free now, if you put it up to Murtha and Thompson and Hussey as well?

MR. WHITMAN: I object to the form of the question.

THE COURT: Yes, I will sustain the objection to that question in that form.

MR. WELLMAN: Exception.

Q Now, you went before the Grand Jury and got out new indictments and testified for new ~~new~~ indictments against Sweeney, didn't you, changing the dates later? A I did.

Q By the way, you said that if you told the truth, the whole truth, that you expected to get immunity. Who do you understand is to be the judge of whether you are telling the truth or not? Mr. Whitman? A I knew who the Judge was.

Q But who do you understand is to be the judge of whether you tell the truth or not, when you get through, so as to get this immunity you have been talking about? A The jury.

Q Then you think if the jury don't believe you, that you will be sent to State's prison, is that right? A I don't know whether I will or not.

Q You don't mean to say that you have been on the police force for twenty-two years, and don't know what immunity means, do you, Captain? Have you been twenty-two years on the police force and don't know what immunity is -- in criminal cases?

MR. WHITMAN: I object. He has stated what he believes immunity to be.

Q I am testing him as to whether his statement is accurate and correct, or not, because you *might let me remind* mind you if he does not tell the whole truth he does not get it. Now, I want to know if in the twenty-two years you have been on the police force, you have not found out the meaning of immunity? A I have not bother with immunity in my life before.

Q Well, you testified and got Hartigan indicted, didn't you?

MR. WHITMAN: I object, if your Honor please.

THE COURT: Objection sustained.

MR. WELLMAN: Excepcion.

Q Didn't you testify in the Hartigan suit? A I did.

Q Against Hartigan, this young man you have spoken of as being a messenger, that brought you some money. Is that the Hartigan?

MR. WHITMAN: I object.

THE COURT: I allow that

Q You testified in his trial, didn't you? A I did.

Q And he is in Sing Sing?

MR. WHITMAN: I object, of your Honor please.

THE COURT: Yes, I will sustain the objection.

MR. WHITMAN: I move to strike it out.

THE COURT: Strike it out.

MR. WELLMAN: Exception.

Q Have you left out in your testimony to-day, anything you know about the corruption of these inspectors? A Nothing I can recall now.

Q You can't recollect anything more against them than you have told? A No.

Q Now I understand you never spoke on these subjects to Murtha, to Thompson or to Hussey? A I never?

Q You never spoke to them on these subjects? A On which subjects?

Q You said that you had all your conversations with Sweeney, didn't you? A No, I did not. If you understood me that way--

Q "I never spoke to anybody but Sweeney," Now, do you mean to say you didn't tell that? A I mean -- if you understood me to say that, it is wrong. All that--

Q No, no. I mean on this subject. On the subject we are inquiring about here, of Sipp's departure from town, and Fox. A Positively never with any of the rest of them. He didn't go away. I had no occasion to speak about it.

Q But I did not ask the occasion. You never did? A Never did.

Q Well, you have told us that when you spoke about it being necessary that Sipp should go away, that somebody

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had said to you "I don't like that kind of business."

Was that true? A Yes, that was true.

Q Sweeney said that to you? A Yes.

Q Did he say it as if he meant it? You were pressing them to get Sipp out of the place and Sweeney said "I don't like that kind of business?" That is true? A That is true, what he said.

Q You had been in that precinct for four years, collecting graft, before Sweeney came into it, had you? A Yes.

Q Now you recollect that you testified before the Grand Jury that in the Murtha indictment, don't you? A To other indictments.

Q Murtha, Inspector Murtha, one of these four inspectors? You testified in an indictment against him, didn't you?

A He was among the four.

Not

Q No, no. /In this indictment, but in another one, when you told the Grand Jury that between the first and the fifth of April, 1911, you gave the money to Murtha. Do you recollect that? A First and fifth, that I do recollect.

Q So you have told the Grand Jury that you gave it to Sweeney, and then perhaps two or three months afterwards you go and tell them that you gave it at the same time to Murtha? A I tell you now it was a mistake I made then.

Q You don't mean to say it was a mistake when you told them that for three or four years you had been giving it

to Sweeney? That was a big mistake, was it not? A It was.

Q You know that Sweeney got indicted in consequence of your mistake, don't you? A I believe he got indicted.

Q He got indicted in consequence of your mistake, didn't he, before the Grand Jury ?

MR. WHITMAN: I object to that, if your Honor please.

THE COURT: Objection sustained.

MR. WELLMAN: Exception. The indictment is the one I have shown here.

MR. WHITMAN: Certainly he was indicted.

MR. WELLMAN: Well, we will trust it to you not to make the mistake yourself. I have put you all together. No doubt about that.

Q You have told us something that I want to have a little better fixed on the record. You told us that Inspector Sweeney on Sunday, the 29th -- now, see if you understand-- Sunday, the 29th of December, Sweeney came to your house twice.

A Yes.

Q Once in the morning and once in the afternoon? A I can't fix the time of day. He usually came there after ten o'clock.

Q No, please, on this day, on this Sunday you have told us of the conversation in detail. Now you may have got some little idea of the time when you had the conversation.

A If I had it, I would tell it. I have no reason for not telling.

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A If I had it, I would tell it. I have no reason for not telling.

Well, I can't tell you the time of day.

THE COURT: It was Sunday, the 29th?

THE WITNESS: Sunday, the 29th. He usually came after ten o'clock mass, and I presume it was around that time.

Q After ten o'clock mass, coming from mass to you?

A He usually done that. Now, there was a couple of times he came earlier.

Q Came earlier from mass to you, and told you that he had the money all right for Sipp, is that right, that Sunday?

A No, he didn't tell me that then. He told me that that evening.

Q Told you that, you said, that morning, because I wrote that down. All arranged this Sunday morning. "Have you got that," you said. "That will be all right." He said. "Tell Fox to keep his hands off. It will be instead of two thousand, fourteen hundred. It's all attended to." That was in the morning, wasn't it? A If I am not mistaken, that is entirely wrong.

Q You want to correct that? A No, I do not want to correct it. Don't be so anxious to correct me. You have got a few corrections you need yourself.

Q You told me it was entirely wrong, so I supposed you wanted to correct it. A I thought you referred to the Sunday before Sipp -- before Fox confessed. That is the day I thought you were speaking of.

Q I was not examining you this morning. Mr. Clark who has got the details at his finger ends was examining you this morning; was correct as a about it. You have told him now, and if you want to take it back, let 's do it now. You told him that it was in the morning that you had that conversation, and in the evening he came back, that night again, and said "We'll send it all by Johnny Hartigan, and send over eight hundred dollars," and so forth. A Then there is a mistake there that I want to correct. He came around on a Saturday morning and said he would be off, if I remember rightly, the next day, which would be Sunday.

Q Would be off? A Yes. He came back Sunday night and told me that everything would be all right. He would send that over Monday morning.

Q What time did he come? A Well, after dark.

Q What? A It was after dark. Must have been seven o'clock.

Q This was December? Would you say between seven and eight o'clock? A He usually came around eight o'clock in the evening.

Q And ~~such~~ as he usually came, you have no reason to suppose this was any different that night? A I have no reason.

Q That is as near as you can fix it? A Well, it could be a little later. It could be possibly nine.

Q How much later? A Well, it couldn't be very much later. I think it was between eight or nine that he came there.

Q Well, you speak of it as between eight and nine. I happen to know where he was between eight and nine.

MR. WHITMAN: I object, if your Honor please.

THE COURT: Objection to that statement -- it is not a question -- is sustained.

MR. WELLMAN: Exception.

Q Now, won't you give me some hour that you will fix, please? A Well, I would like to give an hour and be positive about it. I will say that he was there between half past -- between nine and nine-thirty.

Q Between nine and nine-thirty, you are giving it. You said he usually came about eight o'clock, a little while ago. A I want you to remember that I was lying in bed, ~~right through the night~~ sick. As to the particular hour that he came there, I couldn't recollect. I think, thought that is as near the hour as I could get to it.

Q Now, what will you fix the hour? A I would say between nine and nine-thirty.

Q How did ~~you~~ you get about eight o'clock first. What has occurred to change your memory? A I haven't got any particular reason for it.

Q You said it was a little after dark, you know, and it

was the last of December. A Am I going to help the story any by saying it is a different hour than what it is? I am trying to do the best I can.

THE COURT: Do not argue. Just answer.

Q Now, the next day, Hartigan came to you. Did you send for Hartigan? A I did not.

Q What? A I did not.

Q Wasn't that your money that you took up from under your bed and gave to Hartigan? A One hundred and fifty dollars of it was.

Q Not the nine hundred and fifty dollars? A Positively not.

Q You recollect you had taken from under your bed the five hundred dollars that you sent for the bail, that you gave Moore for the bail -- you reached under your bed and took the five hundred dollars? A I did.

Q You had a big roll of bills there? A That is not so.

Q Was the five hundred dollar bill the only bill you had? A No.

Q When you gave it to Mr. Moore? A That was the only bill I had in my possession. My wife had a little money.

Q You kept a big lot of money somewhere in the house between yourself and wife? A I have no knowledge of it.

Q I understand you deny the nine hundred and fifty dollars

came from under your bed? A I do.

Q Do you deny that you did send for Hartigan to come there? A I do.

Q Do you recollect when you testified in the Hartigan case that you were asked this question: "Will you say that you did not send for Hartigan to come to your house on the 29th of December?" A I don't remember." A I do remember that I did not send for him.

Q Then this;--if this answer is set down by the stenographer, instead of saying "I don't remember," it ought to have been "I do remember," is that right? A That ain't necessarily so. I may not have remembered at that time. I remember now that I did not say so.

Q Let me read you the second line. "Will you say that you did send for him to come to your house on the 29th of December?" That is the second time. A I say I don't remember." A That's true, too.

Q Now, you gave him money from whatever source you got it-- had it in an envelope. You testified, didn't you, over here, or in the Hartigan case, that there were eight one hundred dollar bills? A I did.

Q And that you counted them before Hartigan? A I did.

Q And add one hundred and fifty to it? A I did.

Q In his presence? A I did.

Q Did you notice that you said to this jury this morning

that "I said to Hartigan there is nine hundred and fifty dollars in that envelope". "Hartigan, be careful of it?" Do you recollect you said that this morning? A Nine hundred and fifty dollars --

Q Why did you tell him how much there was in it, if he had seen you counting it? A I took the money from my wife. She had it in her hand. I counted it.

Q Why did you tell him, if he had seen you counting it, that there was nine hundred and fifty in the envelope?

A I think I would do the same thing now with you, Mr. Wellman.

Q You would never get the chance. A I don't know whether I will or not. I might need you some time.

Q Will you say there was not a five hundred dollar bill in there? A There was not one five hundred dollar bill.

Q Did you know that that money went from Fox to Ralph and from Ralph to Newell and from Newell to Sipp, with a five hundred dollar bill in it? and Not eight one hundred dollar bills in it? A I don't know anything about where it went from or to, or how it got to Sipp. I heard it got there, though.

Q You were accustomed to use Hartigan as your messenger, weren't you? A Probably Hartigan ran four or five messages for me.

Q Were you accustomed to use Hartigan as your messenger?

MR. WHITMAN: That is an answer, if your Honor please.

A I would not call it so. First of all, may I answer that question?

THE COURT: Wait till the next question is asked of you.

Q Do you remember sending Hartigan to see a man named Lloyd with regard to getting bail for Eugene Fox. Do you remember that? A I do.

Q He acted as a messenger for you there? A Yes sir.

Q Do you remember asking him on another occasion to go over to the Harlem Bank, at another time, and get a withdrawal for Mrs. Walsh, your wife? A I did not ask him.

Q Did not you answer that question at the Hartigan trial by saying "I do remember it?" A It was Mrs. Walsh that asked him.

Q But you did say before "I do". You were using him on that occasion as a messenger. He was in Captain Sweeney's own office? A He was.

Q And you were using him as a messenger? A Yes sir.

Q He was not in your office? A I was using him to go on a message for me that was to benefit Sweeney as well as myself.

Q "He acted as messenger for you then". And you said "yes". Do you remember another occasion when you asked him to go to Eugene Fox's house to see Eugene Fox; do you remember that? Fox was under arrest at the time? A He was.

Q Do you remember you employed him as a messenger at that time. You remember you did. Your purpose in sending him to Mrs. Fox at that time was to tell Mrs. Fox that everything was being done for Eugene that could be done. Is that right?

A That is right.

Q As you were using him then on those occasions at your own instance, on this occasion that you are now testifying in this indictment, it was at Inspector Sweeney's instigation that you used this man? A Never used him on any occasion at the Inspector's office except with his privilege.

THE COURT: Strike the answer out.

Q (Question repeated) ? A Yes . .

Q Do you recollect saying "Johnny I feel I can trust you there is nine hundred and fifty dollars in that envelope; give that to Eugene Fox; that is counsel fee for Eugene Fox" Do you recollect that? A I don't recollect the "counsel fee".

Q What? A I don't recollect the "counsel fee" although I may have said it.

Q Now I will read you from the stenographer's minutes of the Hartigan trial, and this is only March 13th. It is not so long ago. You are testifying you know to things that occurred seven years ago. Did you say " give that to Eugene Fox; that is counsel fee for Eugene Fox ". Do you remember saying that and did you answer "that is right" ? A It is all right.

Q What? A It is right.

Q And did you tell him to tell Fox to count it? A Yes sir

Q Tell Hartigan to tell Fox to count it? A Yes sir..

Q Now if it is true that Sweeney told you just the day before that it was down to fourteen hundred instead of two thousand dollars, how do you account for the nine hundred and fifty dollars. That seems to be three hundred and fifty dollars short -- four hundred and fifty dollars short?

A I don't understand you.

Q (Question repeated) ? A You say just the day before. What day do you mean?

Q I mean just the day before you gave Hartigan the nine hundred and fifty dollars, you have been ~~saying~~ telling us that Sweeney came there twice, that Sunday, and you told us that in the morning he said to you he cut it down from two thousand dollars to fourteen hundred dollars? A There was two hundred and fifty dollars to be paid for putting up a bail bond.

Q Well, that is only twelve hundred dollars. That is not fourteen hundred dollars? A Well, I think that is a mistake there somewhere in the fourteen hundred dollars.

Q Is that another error you made then? A I cannot recall that.

Q You cannot explain it. Can you explain this: You know by order of the Chief Commissioner and Mayor Gaynor all the plain clothes men were retired and there was a vice squad to look after all the precincts, ordered from headquarters?

MR. WHITMAN: Objected to.

THE COURT: The question is whether he knows that.

A I don't understand a thing about it. When was this vice squad you are talking about?

Q In 1910, when the plain clothes men were all put in uniform and when the vice squad was established at headquarters where they had complete control of what the plain clothes men used to have before in all the different districts?

MR. WHITMAN: I object.

MR. WELLMAN: I withdraw the other question.

Q Do you know that in 1910 by the order of the Police Department the responsibility of the inspectors for anything but outward appearance was taken away from them. You know that, don't you? A No.

Q That was before Sweeney came into your precinct, was not it?

MR. WHITMAN: I submit that he has stated that he does not know.

Q Well, 1910 -- that we will prove by someone else. But in 1910 was the before Sweeney even came into your precinct. He came in in June, 1911? A I think that Inspector Sweeney, if I am not very much mistaken, came into my precinct as commanding officer in June 11, 1910. I may be wrong, but --

Q 1911. You are wrong by one year. That is all. A Well,

that is quite a little ways out of the way.

Q Or a year later than any such order, if we prove that such order was made. That is all.

MR. STANCHFIELD: I desire to cross examine the witness, if your Honor please, in behalf of the defendant Thompson, not on the broad line of his credibility, but in reference to specific matters that relate to the defendant Thompson.

THE COURT: You may do so.

CROSS EXAMINATION BY MR. STANCHFIELD:

Q From what district did you go when you went to the Sixth Inspection District in June, 1907? A In June, 1907, I came from the old Sixth Inspection District, I believe it was called -- that is, 161st Street -- no, Bronx Park Station it is known as. I came from there.

Q Had you been a captain in that district? A Two months only.

Q For two months. And prior to that two months where had you been? A In charge of the Bureau of Supplies and Repairs.

Q And you were located where? A Police Headquarters.

Q At Police Headquarters? A Yes sir.

Q So that when you went into the captaincy of the 43rd Precinct you had had but two months experience as a captain?

A As a captain.

Q That is right, is it? A That is right.

Q You were assigned to the 43rd Precinct by whom? A Commissioner Bingham.

Q Do you know in what territory Inspector Thompson had been serving prior to June, 1907? A I think it was in the Bronx District. I am not positive.

Q Had you at that time in June, 1907, any personal acquaintance with Thompson? A Yes. That is, to this extent: that I knew him as a policeman.

Q You were not upon terms of intimacy with him? A No, I was not.

Q Did you know him in any other sense. I mean by that, did you know him in social ways or meet him at social gatherings or visit at his house or he at your house, prior to the time when you went to the 43rd Precinct? A I did not.

Q Do you know what day in June, 1907, you became Captain of the 43rd Precinct? A I think it was on the 19th.

Q The 19th of June, 1907? A Yes.

Q Had Inspector Thompson been there before that date, or did he go into office upon that date? A I cannot recall. I think it was just about that date -- the day before or the day after. I am not sure. And it may be several days.

Q I am not very particular. Was it about the same time?

A I think it was about the same time.

Q Did you and he occupy the same offices or the same building? A No, we did not.

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Q Where was your office located? A 148 East 126th St. was my office, and his was over at West 125th Street.

Q His office was where? A West 125th Street.

Q Had Fox been your confidential man during the two months preceding when you were captain in the Bronx territory?

A No. I never saw Fox until I came to the 43rd Precinct.

Q Did you ever see Fox in your life until you became captain of the 43rd Precinct as far as your memory goes? A I did not.

Q When you got into this territory of the 43rd Precinct, was Fox already stationed there? A He was.

Q Do you know how long he had been there? A I do not.

Q Did he occupy the same building that you occupied? A He did.

Q So that you were in constant daily touch with him? A I was.

Q Did you know him by sight? A Fox?

Q Yes? A I did not; no sir.

Q You state that every month during your incumbency in that district as captain this graft was collected? A Yes.

Q Was it collected in June, 1907? A I don't know. In that month a man named Sommers was collecting.

Q Who was Sommers? A Sommers was another plain clothes man.

Q Was he the man that Fox succeeded? A Fox succeeded

him.

Q That is, Fox occupied the same official place with reference to the--

MR. WHITMAN: I object to the word "official".

Q -- with reference to the precinct, that Sommers did?

A Yes sir.

Q Who first as between you and Fox, he being a stranger, spoke of this list of places from which graft was collected?

A I believe I did.

Q Did you take the initiative and ask Fox whether there were places in the district from which graft had been or could be collected. Is that the idea? A Why, I am not quite sure on that, Mr. Stanchfield. I believe there was a man named Wren that told Fox how he could get it and where to get it.

Q And did Fox tell you? A He did.

Q prior to that date had you ever been collecting graft?

A I had not.

Q Never in your career as a policeman? A No.

Q When Fox told you where graft could be collected, what reply did you make to him? A Well, as near as I can remember that we would discuss that matter some other time.

Q How soon did you commence to get from Fox the graft in that district, after June, 19, 1907? A I think about two or three months; maybe -- it started in gradually; I think

the first was about a month after he had spoken to me.

Q And it gradually increased? A Yes sir.

Q Until it approximated a figure which I think you fixed this morning at four hundred dollars a month? A About four hundred.

Q What month will you fix when it got under full swing and you were collecting four hundred dollars a month? A Well, I could not say that.

Q You are unable to say? A I am unable to say. It would vary. Some months it would be up and some months down.

Q Did you pay Inspector Thompson while he was there the share that you say was his -- forty per cent -- in person? A In person.

Q Did you take it to his office? A Sometimes I would give it to him in my station house, and I believe there were a few times that I took it to the station house.

Q That you took it to his station house? A That I took it to his station house, and other times I would give it to him at my station house.

Q His round of duties brought him occasionally to your station house, did ^{it} ~~they~~ not? A It did.

Q In going over the district? A Yes sir.

Q And sometimes you said you paid him in your office and sometimes you paid him in his office? A I did.

Q Was anyone ever present when you paid Thompson money

that was graft money? A Never, to my recollection.

Q How positive are you of that? A They would have to be there entirely without my knowledge.

Q Then you intended, when you paid it to him, that no human being should be a witness to the transaction except you and him; is not that right? A Yes sir.

Q And so far as you know, never at any time or place or under any circumstances was anyone present outside of you two when you paid it to him? A So far as I know.

Q And you always, during the entire time that he was there as an Inspector, paid it to him at one or the other of those two offices? A I did.

Q Never paid it to him anywhere else? A No.

Q You never entrusted your wardman Fox, or any messenger, to take the money from you to him? A No.

Q It was a personal transaction in every instance between you two men? A Yes.

Q Do you know how long Thompson served as Inspector of that district? A I could not tell you that exactly. I think it was nearly two years or about. It is merely a guess.

Q Your offhand recollection is something over two years?

A Yes sir.

Q You were a witness before the Grand Jury that indicted

Inspector Thompson, were you not? A I was.

Q You were a witness, were you not? A I believe I was.

Q And you testify before this jury here that the share which you paid Thompson was forty per cent or forty dollars out of one hundred dollars? A Yes. In regard to Thompson?

Q In regard to Thompson? A No, Thompson -- he got -- we divided eighty per cent up between Thompson and myself. Fox got twenty dollars.

Q I will read this from the indictment: "The said Eugene Fox paid to the said Thomas W. Walsh the sum of eighty five dollars in money monthly, and from which payment so received by him he, the said Thomas W. Walsh, paid monthly the sum of forty two dollars fifty cents from January the 1st, 1908, to September 30, 1909, to the said James F. Thompson". Now, did not you swear before the Grand Jury that you paid Thompson during that period of time from January, 1908, to September, 1909, forty two dollars fifty cents a month? A It could not be forty two dollars fifty cents at any time.

Q What human being except you could have testified as to the amount you paid him except Thompson himself?

MR. WHITMAN: Objected to.

THE COURT: Objection sustained.

MR. STANCHFIELD: Exception.

Q Did you testify upon the subject before the Grand Jury, of graft paid to Thompson, that you paid him forty two dollars fifty cents a month during that period?

MR. WHITMAN: Objected to.

THE COURT: Objection overruled.

A I may have testified to that, but I don't recall it. If I did, it was not correct, -- because, as I explained to the jury, there was one portion of the period of these inspectors where Fox was receiving fifteen per cent and at other times he was receiving twenty per cent, during the times when the inspectors had a man there.

Q I recollect that perfectly well, and you said the fifteen per cent regime was during the inspectorship of Sweeney -- to this jury here? A Yes sir.

Q I am speaking of the present part of the period when Thompson was an Inspector? A Then it should be fifteen per cent.

Q I said from January, 1908, to September 30, 1909? A It should have been the other way.

Q Then if you testified you paid him forty two dollars fifty cents a month that was a mistake? A That was a mistake.

Q Did you pay him this forty dollars or forty dollars, whatever it may be, in currency each month? A I did.

Q Did you pay him on any specific day in the month? A No. that

Q But you are perfectly certain that every month ~~at~~ his inspectorship continued in that territory you paid him? A I am almost positive. I know of no date that he was absent.

Q What lingering doubt about it is there in your mind -- any? A There is none that I can recall.

Q No doubt that you can recall? A No.

Q I understood you to say Mr. Sipp was paying this one hundred dollars a month from the Boulevard, formerly the Avenel, for full protection in his right to conduct a disorderly house; is that right? A That is right.

Q The Inspector in the district had the power, without your consent of course, if he liked, to raid any house of which complaint had been made to him or which he believed to be disorderly in its character, had not he? A He had.

Q Did you without the knowledge of the Inspector, or without his approval, have the power to raid these places? A I did.

Q You did also? A Yes sir.

Q Do you not know as a fact that upon July 16, 1907, -- a month or more after Thompson became Inspector of that district -- that he raided this house? A I remember well of it. I remember the complaint was dismissed.

Q What is that? A I remember the complaint was also dismissed.

Q The complaint was dismissed by the court? A It was, up on the evidence.

Q It was nevertheless raided by Thompson, was not it -- under his orders? A His men, I believe, raided it.

Q You say the ~~xxx~~ complaint was dismissed because the evidence was insufficient? A That is what I claim.

Q Did Thompson tell you that he was intending to make that raid? A He did not.

Q Had you paid Thompson that month his share from Sipp for protection of that place? A I did .

Q And notwithstanding you had paid it to Thompson and he put the money in his pocket, yet he raided the place? A That is right.

Q Now I will call your attention further: On August 30, 1907, a month later, he raided that place again, did not he? A I believe he did.

Q And did he raid it because it was upon a charge of its being disorderly? A I believe so.

Q And in this month of August when he raided this identical place, had you paid him his forty of the hundred? A I had

Q And with that money in his pocket paid to him by Sipp, as you say, and that he knew it came from Sipp, nevertheless he raided the place again? A And also discharged again.

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Q We will get at that later . I want to know if it was raided? A It was raided . That is right.

Q Why are you so anxious to volunteer to me that each time it was discharged ? A I did not think you had the full particulars.

MR. WHITMAN: I object to this.

MR. STANCHFIELD: He volunteered it each time.

THE COURT: I will sustain the objection.

MR. STANCHFIELD: Exception.

Q Isn't it a fact that on December 18, 1907, that same place was raided again under Inspector Thompson? A I am not positive about that one, but I think it was.

Q Well, he had been paid the money that month also, was not he? A He was.

Q And isn't it a fact that on July 6, 1908, under his administration as Inspector, that he again raided this place of Sipp's? A Those are records that I cannot testify to without some -- there are some I happen to know.

Q While he was the Inspector in charge of that district, isn't it a fact to your knowledge, that upon four or five different occasions he raided that house as disorderly? A It is.

Q And yet you say on every month that he was there you paid him this protection money? A I say so yet.

Q And you say that you told him that the money that he

was putting in his pocket came from Sipp? A He knew it.

Q Did Sipp come and explain to you that he was not getting value received for his money? A No, he did not.

Q Never discussed that with you? A No.

Q Did Fox ever tell you at any time or place that Sipp was complaining because he was being raided notwithstanding he was paying Thompson? A No, not about Thompson.

Q And no complaint from Fox or Sipp ever came to you although you knew you were getting the money for protection and dividing it with Thompson, if your story is to be believed? A Yes.

Q During the time that you were there under the administration of Thompson, did Thompson as Inspector ever give you instructions with reference to cleaning up the district?

A I got instructions to clean up every place in the precinct except where we were being paid for.

Q Except what? A Where we were receiving money for.

Q Precisely. Then why was Sipp raided if he was paying?

A Oh, he was not raided to hurt him.

Q What is that? A He was not raided to be hurt. He would not be hurt through the raids that were made on him.

Q Who told you he was not to be hurt? A There was not anybody in particular told me. I simply knew it.

Q Did Thompson ever tell you that he was not to be hurt?

A No, he did not.

Q When you say to this jury that he was raided but he was not to be hurt, as you put it, who told you ever or at any place that he was not to be hurt? A I stated to you before, counsellor, that nobody told me.

Q Then, when you say that he was not to be hurt you are assuming that you knew what was in the mind of your superior officer? A No, I am assuming what was in the mind of Sipp, as he expressed it a couple of times "let them make the raid if they want to, it will be all right."

Q When did Sipp tell you that? A I could not recall when it was. It was some time during my --

Q I was quite curious to know a little while ago if Sipp did not come to you on the subject. Now, you say he did.

A Sipp had a talk with me and he told me he would pay one hundred dollars a month if he got full protection. He said he did not mind a raid once in a while so long as they did not come too often. That is just what he said.

Q Did you report that to Thompson? A I did not.

Q So that Thompson at least was conducting these raids in utter ignorance of the understanding between you and Sipp, so far as you knew?

MR. WHITMAN: Objected to .

THE COURT: I will allow that.

Q That is right, is not it? A Yes.

Q Did you chance to hear that during two or three months

of Thompson's term as Inspector up there, he was sick? A I knew it.

Q What? A I knew it.

Q How many months was he off sick? A Why, I think he was off about three months' -- two months anyhow.

Q Then you did not pay him during each of those months?

A No I did not.

Q What did you mean a little while ago when you testified so positively that each month he was there as Inspector you paid him? A Well, he was paid .

Q If he was sick in the hospital he was not paid? A Oh yes, he was paid.

Q Who paid him? A I did .

Q Where did you pay him ? A I think I paid him twice in St. Vincent's Hospital.

Q Did not you tell me a little while ago that you never paid him a dollar in your life except either at his office or your office? A Well, I had forgotten that.

MR. WHITMAN: He said as far as he could remember.

MR. STANCHFIELD:ardon me.

MR. WHITMAN: We can refer to the record.

Q Now, that I am calling your attention to the fact that he was in an hospital, you now recollect that you went to an hospital and paid him ? A Yes sir .

Q What months did you go to the hospital in? A I would

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have to go and look up the records to see that.

Q What year did you go there in? A I think it was in 1908.

Q What hospital did you go to? A I believe it was St. Vincent's, I am pretty sure -- 11th Street.

Q Don't you remember what hospital? A That was the hospital. Eleventh Street. I think the name is St. Vincent's.

Q Eleventh Street and what other street? A Greenwich.

Q Do you recollect whether it was in the autumn, summer, spring or the winter of 1908 that you were at this hospital to see him? A I think it was in the winter.

Q Did you go into the room where he was? A I did.

Q Do you know what he was suffering from? A He had been suffering from typhoid fever. He was almost better. He was pretty near leaving the hospital. I did not go near him until he was about to come out.

Q What season of the year 1908 was it, according to the best of your recollection, that he was about to come out?

A Why, I think, to the best of my recollection, it was around January or February.

Q January or February, 1908? A I imagine so. It might have been around December when he went in. I think it was warm weather when he went in -- that is to say, around Nov-

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ember. And I think it was beginning to get warm when he come out. I am not positive about it.

Q Have you in mind how many times you paid him at the hospital that you are speaking of? A Why I think two or three times -- he got two or three payments at the time.

Q Was the nurse in the room when you paid it to him?

A There was nobody in the room.

Q He was in bed? A He was in bed.

Q And you saw him and had this interview with him alone?

A No. Wrenn was there, but Wrenn had stepped out in the hall.

Q Who? A Officer Wrenn.

Q But he had stepped out in the hall, you say? A Yes sir.

Q You testified here that on the day that the investigation was being had at Police Headquarters you were sent for to come there, were not you? A The first or second day?

Q Either time? A I was sent for two days.

Q You were sent for by your superior officers to come there? A On two different days.

Q I mean subsequent to the time when the story came out before the Aldermanic Committee as relating to Sipp you were sent for to come to Police Headquarters? A That would be the first afternoon.

Q You testified that you saw these four inspectors there?

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A No, three of them.

Q Thompson, you said, was one anyway? A Thompson.

Q Don't you know that he was also ordered to report there?

A I think he was. I don't know positively.

Q Did you see Hussey there? A I did.

Q Was either Murtha or Sweeney there? A Sweeney was there.

Q Don't you know that both Sweeney and Hussey were ordered to be there as well as yourself? A I assumed they were ordered to be there, but I did not hear it.

Q I mean, when you described the fact that they were there, there was nothing significant in the ~~fact~~ fact that they were there because they were ordered there?

MR. WHITMAN: I object to this.

THE COURT: He testified that they were all ordered to be there.

MR. STANCHFIELD: There cannot be anything significant in their presence there if they were there under orders.

THE COURT: That is for the jury and not the witness.

MR. STANCHFIELD: I think that is all.

MR. BATTLE: I desire to ask some questions of the witness, your Honor.

THE COURT: Proceed.

CROSS EXAMINATION BY MR. BATTLE:

Q I understood you to say that Inspector Sweeney came to

the inspection district in which your precinct was located, in June, 1911. Is that correct? A June, 1911, yes sir.

Q That is your best recollection now? A Well, it has been corrected in court here.

Q I mean that is your present recollection? A Yes sir.

Q How long did Inspector Sweeney remain there in that inspection district from that time on? A I was on the sick list. Somewhere around the holidays.

Q What is that? A I was on the sick list and he was transferred somewhere around the holidays.

Q He remained in that precinct until you went on the sick list? A Yes sir.

Q When did you go on the sick list? A I think the 17th of December; and he went away shortly after the holidays. I believe that is the way it was.

Q When did you say you went on the sick list? A I think it was on the 17th of December. I think it was that date.

Q This past December -- December, 1912? A Yes sir.

Q When did you first begin dividing, as you testified this morning, the proceeds of the money of disorderly houses through your precinct, collected through your wardman Fox. When did you begin dividing these proceeds with Inspector Sweeney? A Mr. Battle, from the way the dates are confused, it is hard to say just now.

Q I am asking you for your present recollection? A The

best way I think I could put it, it was the very first month after he was transferred to my precinct he started to collect the money from me.

Q You told Mr. Wellman this morning that the Inspectors knew about it but that you suggested it. Is that correct?

MR. WHITMAN: He corrected that answer. He said he was directed to collect.

Q Well, what is the fact apart from what you testified to Mr. Wellman -- what do you say now? Did you suggest it to the Inspectors?

MR. WHITMAN: Cannot you confine it to any one Inspector?

A As soon as I would go into a precinct I would be very probably a day or so --

Q I am talking about this one precinct and these four Inspectors? A Oh, that is referring to this precinct and the four Inspectors? I would talk about the matter and I would say "What do you want me to do -- go ahead with them or drop it". And they would say "As long as there is no trouble, go ahead with it."

Q You brought the subject up? A Most all times.

Q You recollect you testified before the Grand Jury under oath once that you paid Inspector Sweeney for a part of his protection money for the Hotel Baltic in the month of April, 1911, one half of the money you collected?

MR. WHITMAN: Now, there are four defendants here and four

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defendants' counsel cross examining this witness. His physical condition is apparent. I submit where the same question has been asked and answered, as this particular question has, it is improper that it should be asked again.

THE COURT: I am assuming that counsel will appreciate the situation.

Q You testified before the Grand Jury under oath that you paid Inspector Sweeney his share of the protection money for the Baltic Hotel in April, 1911. You remember that? A Yes sir.

Q And you say now that was wrong -- that you are mistaken?

A It is wrong in this way.

Q Then afterwards on that testimony as you remember Inspector Sweeney was indicted. Then you afterwards testified that in the same month of April, 1911, you paid the same money to Inspector Murtha. Do you recall that? A I do.

Q And on that Inspector Murtha was indicted and is now under indictment. You know that? A Yes.

Q Now, where did you pay this money to the Inspector -- whoever it was that you paid it to. Where was it? A Do you understand that he paid it to me?

Q No. I ask you where you paid the inspector during the month of April, 1911? A Did you understand that Sipp paid the money to me?

Q I did not ask you that. I ask you where you paid the

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money to the inspector? A Oh, where I paid it?

Q Yes. A I paid -- all the money that was ever paid by me to any of the inspectors was either in the station house or the district office, with a few exceptions which I cannot now recall.

Q Was there anyone present on the occasion of any of these payments? A On one occasion there was somebody stepped in the door of the 43rd Precinct station house, and of course when they saw me there they stepped out again. Who it was I did not see.

Q You don't know who that person was? A No, I do not.

Q And when was that? A I think it was some time last -- I was away in July -- I think it was some time in June if I remember.

Q June of what year? A Of last year.

Q Now with that exception -- with the exception of this unknown man -- every other payment you had made to any one of these four inspectors was made when there was nobody present except you and the inspector? A That is all that I know of.

Q You are positive of that? A I am.

Q Then I ask you to throw your memory back again to the month of April, 1911, and tell me where it was you paid the money to the inspector in that month, whoever the inspector was? A That I cannot do.

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Q Was it in the station house? A I cannot recall.

All I can remember is that each payment was made either in the station house or --

Q You have had sufficient memory on this point to give testimony on which two different inspectors were indicted. cannot you remember where the payment was? A I have testified to the best of my knowledge, and it is a case of something I was doing every month, and it is quite a difficult thing for me to remember which place it was.

Q In April, 1911, what is your best recollection of the place of payment? A I would not attempt to state any. I may be wrong.

Q You won't identify any place? A Not the place of payment.

Q Can you give me the time in April when you paid that money? A Those payments were usually made in the afternoon or early evening.

Q I am talking about your payment of this particular month of April, 1911? A I cannot pretend to do that.

Q Can you tell me what day it was in April? A I cannot.

Q Do you remember that you were sick that month of April, 1911? A I was sick a great ~~sick~~ deal last year.

Q What is that? A I may have been that month because I was sick a great deal last year.

Q Don't you know you were laid up on sick leave from the

first or second of April to the 19th of April, 1911? A I may have been. It might have been longer than that.

Q Were you sick at your house all that time? A Well, there were a couple of days that I went out. If I would get any way better at all the doctor would order me out.

Q But you do remember now that you were ill and at your house from the first to the nineteenth of April and only out about twice? A I could not say that.

Q What is your best recollection about that? A I cannot say. All I can say is that I may have been out any day. My doctor is here and can testify to that.

Q Refreshing your memory from the fact that you were sick from the first to the nineteenth of April, 1911, do you have any better recollection as to where it was you paid the money that month? A I could not say.

Q Did you pay it at your house? A I could not say. I either paid it at the house or at the station. If it was a case that I was able to go out I would have went to the station house. I don't believe I paid it at my house at any time. If I was sick I would let it wait until I returned back to duty and then paid it.

Q So that if you were sick you would wait and pay the money after you went back? A When I went back to work.

Q On this month of April, 1911, the records show that you were on sick leave until the 19th of April, and therefore

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you did not go back until the 19th of April? A The records might show that but that is not always the case.

Q Now, I ask you what is your recollection about April, 1911? A I don't recollect being there at all. But it doesn't necessarily say that I did not go to the station house because I was on the sick list.

Q You say that you don't recollect doing what? A I say I don't recollect being at the station house.

Q You remember you testified before the Grand Jury that you paid this money between the first and the tenth of April, 1911? A I gave that as a general --

Q Do you remember that you gave that testimony as to this particular month of April? A If the record shows it, I must have done it.

Q And you were on sick leave at that time? A I may have been on sick leave, but I was able to go out of the house. I was on sick leave when I testified before the Grand Jury.

Q You told Mr. Wellman this morning that you had not been out more than three times while on sick leave? A No. He said I was out more than three times automobile riding, and I said I was not more than three times.

Q You were not more than three times out automobiling?

A That is what he said . I was not .

Q How often were you all together ? A This Spring?

Q From the time you were on sick leave? A I don't know.

I might have been out three times at the most. I went out twice and got sick each time -- I was laid up sick, and the doctor ordered me not to go out again.

Q Do I understand then that you don't remember having been out but twice since you were on sick leave on December last? A Three times I have been out this Spring. The other times I have come down here in the car to the District Attorney's office -- I came down that way instead of riding on the street car. I went out three times to get the benefit of the fresh air. I think there is three other times that I have come down to the District Attorney's office in an automobile. And that is the only time I have been in the automobile this Spring.

Q Is that the only time you have been out at all since you were sick since December last? A I think I have been out five other times -- walked as far as the corner and had to go right back again.

Q Did you ever ride in the street cars during that time? A I have not.

Q Never at all? A No.

Q You are sure about that? A Yes I have -- I rode once from 122nd Street and Third Avenue around to my house in Madison Avenue.

MR. WHITMAN: At 125th Street.

Q Do you remember on the 10th of March, 1913, you went

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all the way from your residence at 125th Street and Madison Avenue down to Far Rockaway? A I do. I forgot that.

Q Do you remember on the 25th of March going out in your automobile and having a talk with Stephen Streub the proprietor of a restaurant in 123rd or 125th Street? A I do. That is one of the times that I told you I was out.

Q And do you remember on March 27th, 1913, going out and calling upon a Mr. Benschel, a jeweler in Madison Avenue?

A No, that was where Mr. Benschel wanted to help somebody by saying I was out. The same day I was talking to Streub I was talking to Benschel, as I passed Benschel.

Q Do you remember being out on the automobile that day?

MR. WHITMAN: He testified he was.

A I was out one day.

Q Do you remember on April 5 going out in your machine at about ten o'clock in the morning? A I don't recall the date.

Q Going out with three ladies -- going out in your car?

A That was my wife and two other ladies.

Q On April 6th, do you remember getting on the street car at 125th Street and Madison Avenue and going over to the Corinthian Garage at 171 East 122nd Street and there testing your automobile? A I did not.

Q On April 6th? A On April 6th? I did not test my car since last winter.

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Q Do you remember going over to the garage on April 6th?

A I do.

Q And examining your car there? A Yes sir.

Q You went by the street car, did not you? A No, I did not. I walked over that day. I went to the doctor's house and from there I went to the garage.

Q This present month of April -- April 6th, 1913?

A April 6th? I don't think I was out of the house this month thus far.

Q April 5 the day I speak of?

MR. WHITMAN: He admitted that.

Q That was this month. You admit that? A I will admit for your records that I have been out at the very most ten times to help the court along in the matter.

Q What is that? A I will admit that I was out those ten times.

Q It is not a question of your helping me.

MR. WHITMAN: I think this whole inquisition is immaterial.

THE COURT: Under the circumstances, realizing that this witness is on the stand all day in his condition, I think that that ought not to be pressed any further.

MR. BATTLE: I won't press it any further.

Q You say that Mrs. Sipp and your wife were friends?

A They were friends up until this occurrence. As far as I know, they have no reason to be otherwise now.

Q Do you know Mrs. Sipp yourself? A I knew her slightly.

Q You knew that she and her two children lived in this Baltic Hotel, this disorderly house, for two or three years?

A I learned all that since this thing occurred.

Q Did not you know that at the time when you say you were taking protection money, that Mrs. Sipp was living there?

MR. WHITMAN: Objected to.

THE COURT: Objection sustained.

MR. BATTLE: Exception.

Q Were you present at the examination before the Police Commissioner when Dorian testified? A I was not.

Q Or when Mrs. Sipp testified? A I was.

Q Did you hear Mrs. Sipp say then that she lived at the Baltic?

MR. WHITMAN: Objected to.

THE COURT: Objection sustained.

MR. BATTLE: Exception.

Q Did you hear Mrs. Sipp say on that occasion that she lived at the Baltic and that she received every day the proceeds of the money taken in at the hotel, paid over to her by Dorian? Did you hear Mrs. Sipp testify to that? A I want to be fair before I make an answer. Are you sure that you have that question right.

Q Just answer the question? A No, I did not.

I merely done that to set that man right -- that is all.

Q You visited the Baltic Hotel frequently, did not you?

A Never was in the Baltic Hotel in my life.

Q Was not it in your list of disorderly houses in your precinct? A It was.

Q And you never went there? A Never did.

Q You testified that Mrs. Walsh brought you money on one or two occasions. You testified about Mrs. Walsh bringing you money on one or two occasions? A I want to understand what you mean by that?

Q I mean handing you money.

THE COURT: In your own house.

A Certainly she handed me my own money.

Q That was your money? A Yes sir.

Q And where was that money kept in the house? A Kept in a little safe box I got.

Q In a safe deposit box? A Not in a safe deposit box. In a safe box -- a strong box.

Q Where was that safe box kept? A In the hall room.

Q Was it locked? A All the time.

Q Who kept the keys of it? A There was a combination to it. My wife and myself.

Q Your wife and yourself kept the money? A Yes sir.

Q Either one of you could go there and get it? A Either one.

Q Did you keep any bank accounts? A I did.

Q Was it a check account or savings account? A Both.

Q Where were your bank accounts kept?

MR. WHITMAN: Objected to.

THE COURT: Objection overruled.

A The check book account was kept in the Mt. Morris Bank.

Q between what periods -- between what time? A 1907

I think.

Q Up to what time. From 1907 up to what time? A I do not think I have been to the bank since I have been sick -- last June.

Q Have you still got an account there? A A very small one.

Q And where were your savings bank accounts kept? A I had three of them.

Q Where were they? A The Bleecker, The Emigrants, M t. Morris -- that is all.

Q Did you have any bank account out of town? A That is the Mt. Morris -- at least the Harlem Savings Bank. The Mt. Morris was the check bank.

Q Did you have any bank account out of town -- out of New York City? A I did not.

Q They were the only bank accounts you had? A Yes sir.

Q Did you have a safe deposit box or vault anywhere? A I did not. I did at one time for I guess about six months.

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Q When was that? A I guess seven or eight years ago.

Q And were these savings bank accounts kept in your name or your wife's name? A Both of our names .

Q In your joint names? A There were two of them.

Q Did Mrs. Walsh have an account in her own name?

MR. WHITMAN: Objected to .

Q In which your money was ?

MR. WHITMAN: Objected to .

MR. BATTLE: Question withdrawn .

Q Was there any bank account in which you deposited the money that you collected or the money that you were paid, in the name of your wife? A Was there any bank account?

Q In other words, did you keep any bank account of your own money in your wife's name? A No . Yes, she did -- she had a bank account.

Q Where was it? A There were two accounts in the Harlem Bank. There is two accounts in the Emigrant Bank. And there is one in the 22nd Street bank.

MR. CLARK: The Bank of Savings?

THE WITNESS: The Bank of Savings. There is one there; two in ~~Harlem~~ the Harlem and two in the Emigrants.

Q Did she have one in Jersey? A No, she did not.

Q Did you have one in Jersey? A No.

Q You have a country place in Jersey?

MR. WHITMAN: Objected to .

THE COURT: Objection sustained.

MR. BATTLE: Exception.

Q When did you first begin keeping an automobile?

MR. WHITMAN: Objected to.

THE COURT: Objection sustained.

MR. BATTLE: Exception.

Q Did you employ a chauffuer?

MR. WHITMAN: Objected to.

THE COURT: Objection sustained.

MR. BATTLE: Exception.

Q What was your salary as police captain? A \$2,750 a year.

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Q You say that you made this statement to the District Attorney because you wanted to get the matter off your shoulders?

MR. WHITMAN: Off his mind, he said.

Q Have you made restitution to anyone, of this money that you illegally and improperly collected?

MR. WHITMAN: Objected to.

THE COURT: Objection sustained.

MR. BATTLE: Exceptio n. That is all.

CROSS EXAMINATION BY MR. GILBERT:

Q The Harlem inspection district was the Sixth, was it not?

A Yes.

Q That took in a number of station houses in the upper part of Manhattan Island? A Yes, sir.

Q The Bronx Inspection District was the Seventh?

A It was.

Q That took in all the territory of the Bronx? A All north of the Harlem River.

Q Everything in the City of New York above the Harlem River? A Yes, sir.

Q Do you know who the inspector was assigned to the Seventh District --

MR. WHITMAN: I object to this.

MR. GILBERT: I want to bring out that inspector Murtha was simply there temporarily in the Seventh.

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THE COURT: His testimony is that Murtha was there from about March, 1911, to June 1911.

MR. GILBERT: I understood him to say from a month to a month and a half. The indictment reads from March to June.

MR. WHITMAN: This is not the proper way to prove it.

BY THE COURT:

Q Can you tell us whether Murtha was in that district from another period of time than from March, 1911, to June, 1911, as an inspector? A I cannot tell without the records.

BY MR. GILBERT:

Q Do you recall the time that he was in the Sixth Inspection District. Have you a present recollection of it?

A I have.

Q You have? A Yes, sir.

Q Do you recall the fact that at that time he was the inspector in the Seventh?

MR. WHITMAN: I object to it as immaterial.

THE COURT: I cannot tell. Do you mean while he was also in the Sixth District?

MR. GILBERT: Yes, sir.

BY THE COURT:

Q Do you know that while he was inspector in the Sixth District he also had some jurisdiction, or authority, in the Seventh? A He did.

BY MR. GILBERT:

Q Isn't it a fact that prior to March, 1911, Inspector Murtha was the inspector assigned to and had charge of the Seventh District which was the Bronx? A That I could not say.

Q Cannot you remember that? A I cannot remember that. I cannot place my memory on the Seventh except during the time Inspector Murtha had charge of the Sixth District I was called one morning to the Seventh District where he was in charge of--

Q You remember the fact that he was in charge of the Seventh as well as the Sixth? A He was. He had to be to have that power.

Q Don't you recall that he was in charge of the Seventh and when Inspector Hussey was transferred Inspector Murtha was directed to take care of the Sixth in conjunction with the Seventh, as a temporary detail. Don't you recall that?

A That might have happened, but I don't recall.

Q I want your recollection. You don't recall it?

A I don't recall the fact that he was ordered to take charge of both, although that may have been the case.

Q The only point that is clear in your mind is that he was there for a very short period? A Yes, sir.

Q Between Hussey and Sweeney? A Yes, sir.

MR. GILBERT: That is all.

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RE-DIRECT EXAMINATION BY MR. CLARK:

Q What was your condition of health the night you sent for Judge Whitman to come up to see you?

MR. BATTLE: Objected to as improper and immaterial.

THE COURT: It seems to me you have gone into that.

MR. CLARK: I just want to get the witness' condition of mind as to his condition and as to whether or not he thought he was about to die.

MR. BATTLE: I object to it.

THE COURT: Objection sustained.

Q (Handing witness paper) I show you a paper and ask you if that is your signature on that paper? A Yes, sir.

Q And you signed and acknowledged that paper before me at your house? A Yes, sir.

MR. CLARK: I ask that it be marked for identification.

(Paper referred to marked Exhibit 1 for Identification).

MR. CLARK: That is all.

THE COURT: I will ask you gentlemen to-morrow to be ready to continue an evening session if necessary. I will not ask it to-night, because the gentlemen may not be in readiness. But to-morrow I suggest that we come prepared to sit during the day and evening. We have to detain the jury in any event, and I think they may as well sit here as in the hotel in the evening.

MR. WELLMAN: May we have some intimation of how long

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the District Attorney expects to take on his case?

MR. CLARK: If we are going to have four cross-examinations of each witness, we are perfectly safe for to-morrow afternoon and evening.

THE COURT: Now, are you sure?

MR. CLARK: We have eleven witnesses. I do not think there is the slightest doubt but that we will take all day to-morrow and to-morrow evening.

THE COURT: Well, gentlemen, to-morrow morning we will meet at ten-thirty and continue until one o'clock; and then from two o'clock until six; and from six to eight we will adjourn; and from eight we will resume and continue until further notice.

(The Court duly admonished the Jury and an adjournment was then taken until to-morrow at 10:30 A. M.)

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Thursday, May 1, 1913.

The Court met pursuant to adjournment.

The People vs Dennis Sweeney and Others, resumed.

NELLIE A. WALSH, a witness called in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLARK:

Q You are the wife of Captain Walsh who testified yesterday? A Yes sir.

Q How long have you been married to him? A Twenty one years.

Q You have been with him at all times since he was taken ill last December -- that is you have been living at home there? A Yes sir.

Q Do you remember the exact date when he was taken sick? A It was right before Christmas. I don't just remember the date.

Q Do you remember the day of the week? A On a Sunday morning.

Q On a Sunday morning before Christmas? A Yes sir.

Q And after that what was his physical condition -- what was his health from that time on to the present time? A Why, he has been very very ill all the time since then.

Q And has he been confined to his bed part of the time? A Yes sir, mostly all of the time.

Q Do you know the defendant Sweeney ? A Yes sir.

Q Did you see him at your house at any time after Capt. Walsh was taken ill in December? A Yes sir.

Q How often? A perhaps two or three times a week.

Q Do you remember the Sunday after Captain Walsh was taken sick -- that would be the Sunday after Christmas. Do you remember that day at all? A I don't know just what you mean.

Q Did you see Inspector Sweeney on that day -- do you recall it was the day before Fox was discharged in the Magistrate's Court? A Yes sir.

Q Did you see him on that day? A Yes sir.

Q What time of day did you see him ? A Do you mean it was on a Sunday night?

Q Yes. Did you see him Sunday night? A Yes sir.

Q Where did you see him? A In my house.

Q Did you see him when he came? A Yes sir.

Q And was Captain Walsh in bed at that time? A Yes sir.

Q What did you do when the Inspector came? He came into the room. A He came into my husband's bedroom.

Q And then did you stay there or did you go out? A I came out.

Q Did you see the Inspector again before he left? A Just as he was leaving I did, yes sir.

Q Just as he was leaving? A Yes sir.

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Q Did you have any conversation with him or did he say anything to you or in your presence? A He did not say anything to me.

Q Did you hear him say anything at all? A Yes.

Q You did? A Yes.

Q What did you hear him say?

MR. STANCHFIELD: I object to that so far as any other defendant is concerned than the defendant Sweeney. And I ask your Honor likewise to limit that testimony.

THE COURT: At present the court will receive it for all purposes as against the defendant Sweeney. It will receive it conditionally as to the other defendants. If they are subsequently connected and shown to have entered into a conspiracy then it will be received as to all. If they are not subsequently connected with it, I will direct the jury to disregard it.

MR. STANCHFIELD: Exception.

A I heard him say he would send Hartigan over in the morning.

Q Did you see Hartigan the following morning? A Yes sir.

Q Were you there when he came? A Yes sir.

Q What happened after he came?

MR. BATTLE: I object to any statements made by Hartigan as incompetent, irrelevant, immaterial, hearsay and not in any way binding on the defendant Sweeney.

THE COURT: Objection overruled.

MR. BATTLE: Exception for all the defendants.

Q What happened when Hartigan came? A Why, I went in the room -- my husband was sick in bed, and Hartigan handed my husband an envelope with money in it. And my husband told me to get --

Q Did you see the money in the envelope. Was it opened or sealed? A It was sealed. My husband tore the envelope open and then I saw the money. Then my husband told me to get one hundred and fifty dollars, which I did -- a one hundred dollar bill and a fifty dollar bill. And he told me to get him a fresh envelope, and I got him the fresh envelope and the money, and he put it in the envelope and handed it to Hartigan for Hartigan to take it to Fox.

Q When the captain took the money out of the envelope did you see the money? A Yes sir.

Q Did you see how much there was? A There was eight hundred dollars in it.

Q And then you gave him one hundred and fifty dollars more? A Yes sir.

Q And did Hartigan leave then? A Yes sir.

Q Did you see Hartigan again that day? A He was there that day, yes sir. I saw him again.

Q At what time? A I am not quite sure; I think it was in the evening I saw him again.

Q Now, did Inspector Sweeney come around any more after; that was the 30th of December? A Oh yes sir.

Q How often did he keep coming around? A Just the same -- two or three times a week.

Q Did you keep track of Fox's being arrested, again; I mean, did you hear about it when it happened, when he was arrested and bailed out and then was about to be brought on for trial? A I heard about it.

Q After Sipp came back? A Yes sir.

Q Did you read the papers about it at that time? A Not very much, because my husband was so sick I did not keep track of it.

Q But did you know from the papers that Fox was going to be brought on for trial? A Yes sir.

Q You remember that time when he was going to be brought on trial, do you? A Yes sir.

Q Do you remember the date; do you remember the date when he pleaded guilty? A Yes sir I do. I think it was the third of February.

Q The third of February? A I think it was.

Q Did you see Sweeney after that at all -- after the day that Fox pleaded? A I think one night after that.

Q What was the time when you last saw him before Fox pleaded guilty? A Friday night before.

Q Fox pleaded guilty on Monday morning? A Fox pleaded

guilty on Monday morning.

Q And the Friday before you saw Sweeney? A Yes sir.

Q How do you fix the date as of Friday? A Because I went to church that evening.

Q And was he there before you left? A No sir.

Q When did you see him? A When I came back from church. The nurse told me that he was waiting -- that the Inspector was waiting for me.

Q That was in the ^{evening} ~~morning~~? A Yes sir.

Q About what hour? A I got home from church a little after nine o'clock.

Q And you saw the Inspector after you had spoken to the nurse? A Yes sir.

Q Where was he -- with your husband? A Yes sir.

Q You went in the room? A Yes sir.

Q What happened when you went there? A Before I went to church my husband told me --

THE COURT: No, don't mind that.

Q Before you went to church had you had anything to do with any money? A Yes sir. My husband told me that he wanted five hundred dollars for the Inspector. When I came home from church the nurse told me that the Inspector was waiting. So I went in the room, and my husband told me that he wanted another one hundred dollars.

Q What did you do? A I got the one hundred dollars.

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Q You got another one hundred dollars? A Yes sir.

Q Where from? A From the safe.

Q What did you do with the one hundred dollars? A I gave that with the five hundred dollars to Inspector Sweeney.

Q At the time when Captain Walsh asked you to get the other one hundred dollars for Inspector Sweeney, was the Inspector in the room at the time? A He was sitting on the chair at the foot of my husband's bed.

Q In your husband's bedroom? A Yes sir.

Q And then you went out and got the other one hundred dollars? A Yes sir.

Q And gave him the whole six hundred dollars? A Yes sir.

MR. CLARK: That is all.

MR. WELLMAN: Will your Honor have some one sent out for Samuel Carter?

THE COURT: Yes.

CROSS EXAMINATION BY MR. WELLMAN:

Q Before they bring him in, you know who Samuel Carter is? A Yes sir.

Q He was your chauffeur? A Yes sir.

Q Do you remember after Fox was arrested and the District Attorney wanted to see Samuel Carter, you told him that you wanted him to testify falsely about his salary, and to put it lower, so much a week, than he got? A No sir.

Q You deny it? A I deny it.

Q And do you deny that you asked him to swear that the Pierce-Arrow ~~Mississippi~~ car was the only one that your husband had ever had and to conceal the fact that you owned a Ford car before that one? A No sir. I had no conversation like that with Johnny Carter.

Q You did not tell him that? A No.

Q That you absolutely deny? A Absolutely.

Q Did Captain Sweeney come to your place two or three times a week? A Yes sir.

Q Right along for a year or two? A Oh no -- only since my husband was ill.

Q He came to pay him a visit, to see how he was? A Yes sir.

Q And do what he could for him when he was sick?

MR. WHITMAN: I object, as she said nothing of the kind.

A I don't know what he could do for him.

Q Well, what any friend can do for another.

MR. WHITMAN: I object to that unless there is a question.

MR. WELLMAN: I will not press it if you object, Mr. Whitman.

Q You say that you saw Inspector Sweeney at your house on a certain Sunday night three months ago? A Yes sir.

Q Can you tell us the hour that you saw him there on this certain Sunday night? A Oh, it may have been between seven and eight o'clock. I don't know just.

Q Between seven and eight? A It may have been later

than that. I just don't know. I cannot remember the time. It was in the evening I know.

Q You can tell us something about whether it was between half past nine and ten or seven and eight? A Oh no, it was not as late as half past nine.

Q What? A It was not as late as half past nine.

Q Your husband suggested that yesterday, and I want to find out what your recollection is. You put it ~~some~~ between seven and eight as near as you can fix it now? A It might have been later.

Q Could it have been half past nine now -- so as to agree with your husband?

MR. WHITMAN: I submit that is not fair.

Q Could you put it as late as half past nine? A I don't think so. It might have been.

Q It might have been as late as half past nine?

MR. WHITMAN: She says she does not think so.

A I don't know.

Q And how long was he there? A It was not as late as half past nine when he came there.

Q How long was he there? A About three quarters of an hour.

Q And he left the important thing until he was going, apparently, because it was then that you heard him say that he would send Martigan over with the money in the morning?

MR. WHITMAN: Objected to.

THE COURT: Objection sustained.

MR. WELLMAN: Exception.

Q He was locked up in the room all the time, or shut up in the room three quarters of an hour? A Yes sir, they were talking together.

Q The door shut? A Yes sir.

Q And then just as he was leaving he comes out where you could hear it and he says "I will send Hartigan around"?

A I was coming to the door because my husband was very ill, and I came to the door to find out if the Inspector was not staying a little too long, and as I was about to open the door the Inspector was about to leave, and I heard him say that he would send Hartigan over in the morning, and he left.

Q As you opened the door at the end of the three quarters of an hour, you heard him make this remark? A He was just about to leave.

Q Hartigan did come in the morning? A Yes sir.

Q Now, you have known this Hartigan so well you called him "Johnny" -- by his first name? A Yes sir. I do know him well.

Q He was a man about what age? A About thirty two I guess.

Q Had you known him a great many years? A No, I don't

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know him a great many years. I know him about three or four years.

Q You and your husband were both witnesses at his trial, were not you? A Yes sir.

Q On this subject? A Yes sir.

Q On this subject.

MR. WHITMAN: Objected to. What subject?

Q This subject that you have been testifying today about your adding one hundred and fifty dollars to the eight hundred dollars?

MR. WHITMAN: He was on trial for perjury.

MR. WHITMAN: On this very subject, however -- perjury as to whether he said that he had come from the Inspector or not.

Q How long had you known him? A I might know him three or four years -- between three and four years.

Q And you had known him enough so that you called him "Johnny"? A Well, he came very often to our house and my husband called him Johnny.

Q He was a very nice man? A Yes sir, he was a nice little fellow.

Q He is in Sing Sing now? A That is not my fault. It is his own, because he did not tell the truth.

Q And you are telling the truth when you say you did not tell your chauffeur to change his testimony when he went

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down to see Mr. Whitman? A I am telling the truth.

Q Have you ~~any~~ had any trouble with your chauffeur. Can you think of any reason that you and he are on the outs in any way? A He is not my chauffeur now because I have not any car.

Q You disposed of your car how many weeks ago? A About three weeks ago.

Q It was your car, too? A Yes sir.

Q Well, you were sharing in your husband's graft. You knew it, did not you?

MR. WHITMAN: Objected to.

THE COURT: Objection overruled.

Q You knew he could not buy automobiles on his salary?

A I had money of my own. My aunt left me money.

Q You did not buy that car with your own money? A My husband bought the car.

Q Look at me and not at Mr. Whitman. Did you buy it with your own money? A My husband bought the car.

Q You knew he could not buy it on his salary? A Yes sir, he could buy it on his salary.

Q Twenty seven hundred dollars was testified to yesterday as his salary, and a Pierce-Arrow car is a five thousand dollar car? A Eighteen hundred dollars the car cost.

Q I thought it was five thousand dollars? A It was in the newspapers that it was seven thousand dollars.

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Q That would leave nine hundred dollars to live on that year? A We paid eighteen hundred dollars for the car.

Q Even an eighteen hundred dollar car, could you run it with a chauffeur at a salary of --

MR. WHITMAN: Objected to.

THE COURT: Objection sustained.

Q You knew you were living on his graft?

MR. WHITMAN: Objected to.

A I knew I was living on my husband's salary.

Q Answer my question. Did you know you were living on his graft? A I knew I was living on my husband's salary.

Q Did you know in addition, you were having an automobile and living on his graft?

MR. WHITMAN: Objected to.

THE COURT: Objection sustained.

MR. WHITMAN: Exception.

Q Did you know that you were living on his graft in one way or the other?

THE COURT: Answer yes or no.

A I don't know.

MR. WHITMAN: I wish your Honor would explain the question to her.

THE WITNESS: My husband only gave me his check.

Q Did you know you were living on your husband's graft?

THE COURT: Say yes or no. It is a question that relates

to your knowledge.

THE WITNESS: How I can I say I knew I was living on it, Judge?

THE COURT: If you don't know it, tell us. We want an answer yes or no.

THE WITNESS: If he did not have any salary I would say yes. But how can I say yes when he was getting a salary?

Q In your mind you know whether you were or not. I do not mean entirely on his graft of course because he had a salary, too. But you knew you were living at a rate that the salary would not supply? A Well, I could, too, you know. We had no children. There was only my husband and myself, and we lived very nicely and --

Q But you knew you were living at a rate that the salary could not supply, did not you? A Well I suppose I --

Q What? You suppose you knew? A Yes sir.

MR. WHITMAN: Suppose she knew what?

Q What did you mean by it? You suppose you knew what? You suppose you knew that your husband was taking money besides his salary? A Yes I knew. He told me so.

Q Who did you think he was taking the money from? A I did not know that.

Q Did you know that Sipp was one of them? A Since this trouble was going on, yes.

Q But you knew it before? A No, I do not think I paid

any attention. He never told me where he got the money.

Q You think you paid no attention as he did not tell you where he got the money. But you were seeing Mrs. Sipp constantly, were you? A I seen Mrs. Sipp, yes sir.

Q Did you know that they were running a disorderly house?
A I did not know nothing about his business.

Q Your husband did not tell you? A No sir.

Q What? A No sir.

Q What? A No sir.

Q Do you mean to say that without telling you anything about it, your husband was letting you go out with Mrs. Sipp?

A I did not go very often with Mrs. Sipp.

Q Did not you go every Monday to the Waldorf with her?

A I went every second Monday for a while.

Q Well, that is pretty often? A Not the whole year round -- for a few months.

Q Nobody goes to the Waldorf the whole year round, only nine months in the year, when people are there. Did you belong to a card party with some of the other ladies there -- you and Mrs. Sipp? A Yes sir.

Q Then you knew her pretty well? A Oh, I knew her.

Q Do you mean to say that you had no idea that she was officiating in a disorderly house? A We never talked about her husband's business.

Q I ask you whether you knew it -- if you did not know

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that she was part of that Baltic Hotel? A Oh yes, I know her husband had to do with that hotel.

Q My question was, did not you know that she had to do personally with the Baltic Hotel at one time?

MR. WHITMAN: I object to the form of the question.

Q I mean collect the money, kept the books and owned the house and lived there; did you know that? A That Mrs. Sipp did that?

Q Yes. A No, I did not know that.

Q You did not know that she lived there, kept the books and owned the Baltic?

MR. WHITMAN: I object to that as it must be divided I think.

THE COURT: I think the question should be divided.

A She told me that she lived there some time ago.

Q Three and a half years she lived there? A I don't know how long.

Q Do you mean as a policeman captain's wife you did not know what the reputation of the Baltic was? A No, I did not know it.

Q You never suspected it?

MR. WHITMAN: Objected to.

THE COURT: Objection overruled.

A Yes, I suspected it.

Q Do you say that during those seven years as a police

captain's wife in that district, you did not know about the raids that had been made at that Baltie and the arrest? A I did not know. I suspected and heard of them but I did not know.

Q I do not mean know from personal ~~sight~~ sight, but you knew you heard it? A Yes sir, I heard it.

Q And, knowing, so far as a person can know without having personal knowledge, hearing that this place was raided as a disorderly house, raided for one purpose and another, you went on with Mrs. Sipp to the parties she went to -- to the card parties and so forth? A Yes sir. Mrs. Sipp is a very good woman, a very nice woman.

Q You told us about young Johnny Hartigan and that he came in with an envelope. It was sealed, was not it? A Yes.

Q That is, you said it was sealed? A It was sealed.

Q And your husband opened it. That is what you testified to? A Yes sir.

Q Did you open it? A No.

Q Will you tell us just the denominations of the bills that were in it. You told us there were eight one hundred dollar bills. Did you count them? A No. My husband counted them.

Q And did you watch him count them? A Yes sir. I see him count the bills.

Q You knew what it was about then? A No, I did not know

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what it was about.

Q I do not mean "know" in the sense that you took a note, but you heard what it was about?

MR. WHITMAN: You heard what it was about.

Q The eight one hundred dollar bills -- had you heard what it was for? A Why, I think I did.

Q And you went and got one hundred and fifty dollars of your own money and added it to it? A Yes sir.

Q Got one hundred and fifty dollars of your own money and added it, having heard what it was for. Then you were a party to it.

MR. WHITMAN: Objected to.

THE COURT: Objection sustained. I think that might be understood in a technical sense but not by the witness ordinarily.

MR. WHITMAN: As an admission on her part that she added a hundred and fifty dollars of her own money for the protection of her husband who was obstructing the administration of the law by --

MR. WHITMAN: I object to this.

THE COURT: Is this a question?

MR. WHITMAN: No, just an explanation, -- an exclamation.

MR. WHITMAN: I respectfully ask the court to instruct the jury to disregard such statements.

THE COURT: I think the jury understand that statements

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contained in questions propounded are not evidence. The evidence comes from the witness and not from counsel.

MR. WELLMAN: Does your Honor sustain --

THE COURT: I sustain the objection to the question as to whether she knew that she was a party to it.

MR. WELLMAN: Yes. And we take an exception. That is all.

RE DIRECT EXAMINATION BY MR. WHITMAN:

Q When you answered Mr. Wellman that you knew what this money was about -- A What I mean was that I knew that it was to be given to Johnny; what the money was for I did not know.

Q You knew it was to be given to Hartigan? A Yes sir.

Q Further than that you knew nothing about it? A I did not know.

Q And in your answer to Mr. Wellman you said you knew that it was to be given to Johnny Hartigan? A Yes sir, that is all I knew.

Q When you say you went to the Waldorf with Mrs. Sipp, explain to the jury what the gathering was that you attended? A Why, it was a little social card party.

Q Given under what organization? A The Aloha Club.

Q That was connected with the church? A No, that was a social club. Very nice ladies belonged to it.

Q How many women were there in it? A There may have been

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twenty or twenty five ladies.

Q You knew Mrs. Sipp in the church? A Yes sir.

Q You and she were members of the same church in Harlem?

A We have a little sewing class, and Mrs. Sipp went there and sewed, as I did myself, in the parish.

Q And your connection with her was in the sewing class in the church and in the club of which you spoke? A Yes sir.

MR. WHITMAN: That is all.

CROSS EXAMINATION BY MR. TALLEY:

Q That sewing class that you speak of, was only organized September a year ago; is not that correct? A Yes sir.

Q And you have known Mrs. Sipp for a period of several years, have you not? A No, I knew Mrs. Sipp about -- I do not think quite four years.

Q You knew Mrs. Sipp then at least two and a half years before the organization of this sewing class that you just told the District Attorney about; is not that correct? A I guess so, yes sir.

MR. WELLMAN: I would like to ask another question in reference to the District Attorney's examination.

THE COURT: proceed.

CROSS EXAMINATION RE RESUMED BY MR. WELLMAN:

Q You told the District Attorney that you knew this one hundred and fifty dollars was for Hartigan, but you did not

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know anything about it? A I did not know anything more about it.

Q Did you give one hundred and fifty dollars of your own money without knowing what it was for? A It was my husband's money, yes sir.

Q Did you give it without knowing what it was for? A Yes sir, I did not ask him what it was for.

Q Had not you and your husband talked ~~me~~ over about Sipp testifying before the Aldermanic Committee? A No sir, we did not talk about it, because Mr. Walsh was very sick at that time.

Q Why, you fix this date of the 30th, that exact date -- you fixed that because you said you knew Fox was coming up for a hearing the next day, did not you -- Sipp I mean was coming up?

MR. WHITMAN: It was Fox.

MR. WELLMAN: Then, I was right that time.

Q That Fox was coming up the next day; is not that right?
A Yes sir that is right.

Q Then you must have known about it?

MR. WHITMAN: Objected to. Mr. Wellman himself is mistaken.

THE COURT: I will permit him to ask whether she knew about it.

MR. WHITMAN: About what?

MR. WELLMAN: Question withdrawn.

Q. You told the jury that you fixed the date Sunday because the following day you heard that Fox was coming up for a hearing? A Yes sir.

Q And you knew, did you not, that whether Sipp was there or not was an important thing for Fox and your husband?

A What do you say?

Q (Question repeated).

THE COURT: yes or no.

THE WITNESS: An important thing -- how, Judge?

THE COURT: Do you think it was an important thing or unimportant.

MR. WHITMAN: That is, whether Sipp was there or not.

Q Whether Sipp was present? A I don't know. I did not pay much attention to that. I cannot just know.

Q Then your husband did not tell you of his worries about it? A Yes sir he did -- he told me he was worried about it.

Q And did not he tell you about his worries about Sipp coming back and what Sipp would say? A No, he worried more about Fox.

Q Lest Fox would talk? A I don't know whether he talked or not, but he worried more about him because he was in trouble.

Q Worried more about him lest Sipp would tell about it. Is that it? Look at me. I am asking you the question. He told

you that he was more worried about Fox than Sipp, but he was worried because Sipp would testify --

MR. WHITMAN: I object to that. She said he was worried about Fox but not about Sipp. She said he was more worried about Fox than Sipp.

Q And did not he tell you that he was worried lest Sipp might testify about Fox? A He did not tell me about that.

Q What was he worried about Fox for?

MR. WHITMAN: Objected to.

Q What did he tell you that he was worried about Fox about? A He did not like the idea of him being arrested I guess and being away from his family.

Q Do you mean that is all that he said? A How do you mean, is that all that he said?

Q About his worry about Fox? A Oh, he worried about the whole affair I suppose.

Q That is it exactly -- the whole affair of Sipp's testimony brought out before the Aldermanic Committee.

MR. WHITMAN: Objected to as she said nothing about Sipp.

MR. WELLMAN: She said the whole affair.

THE COURT: I will allow it.

Q By the whole affair, you include Sipp's testimony before the Aldermanic Committee, don't you? A No, I don't think I do.

Q Do you want the jury to believe that you did not at

that time know anything about Sipp(s testimony before the Aldermanic Committee?

MR. WHITMAN: I object to the form of the question -- what she wants the jury to believe.

THE COURT: Objection sustained.

Q Well, is it a fact then that you did not know up to that time anything about Sipp(s having testified before the Aldermanic Committee? A Oh, I might have known it. I guess I read about it.

Q You had read about it? A I think I read about it.

Q Then it appears you did know, you had read about it and you knew about your husband's worries about Fox. Do you remember at the Hartigan trial you testified: "Q How did you know then? A Because my husband had told me about it and I had read it in the newspapers". That was in trying to fix the date -- December 30th. The 30th was the date that Fox was let out of court.

MR. WHITMAN: Objected to.

THE COURT: To what does that relate?

MR. WELLMAN: It relates to the fixing of the date of the 30th of December and to the date that Fox was let out of court.

Q Well, all I am trying to get at is, that your husband told you about it and that you had read it in the newspapers?

A Yes sir I read it in the newspapers.

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Q Were you not willing to tell that in the first place?

MR. WHITMAN: Objected to as she said it over and over again.

THE COURT: Objection sustained.

Q You said in answer to one question you did not know what it was about -- you gave one hundred and fifty dollars of your own money but you did not know what it was about. Did not you say at the Hartigan trial that you heard your husband say to Hartigan "Give that to Fox"? A Yes sir.

Q Well, you did know where it was going, for you heard your husband say where it was going? A I knew where it was going. I did not know what it was for.

MR. WHITMAN: That is all.

CROSS EXAMINATION BY MR. GILBERT:

Q Mrs. Walsh, were not you in the room when, as you say, the money was counted that Hartigan brought? A When the money was counted?

Q Yes. A Yes sir.

Q You saw the money counted? A Yes sir.

Q And then you say your husband asked you to get the other one hundred and fifty dollars? A Yes sir.

Q And you went out and got the other one hundred and fifty dollars? A Yes sir, I got it.

Q And you brought it back into the room? A No, I did not

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go out of the room. I got it out of my dresser drawer.

Q You stayed in the room? A Yes sir.

Q You stayed in the room until Johnny Hartigan left?

A Yes sir -- no, not until he left.

Q What is that? A I did not stay in the room till he left.

Q Did not you stay in the room until he left? A No.

Q How long did you stay in the room? A I just stayed until my husband just fixed the money in the envelope and gave it to Johnny.

Q So that you were there when your husband gave the money to Hartigan? A Yes sir.

Q And heard what he said -- you heard what your husband said to Hartigan when he gave him the money? A I heard him say "Give it to Fox."

Q You heard him say that? A Yes sir.

Q Did you hear him say for what purpose? A No sir.

Q Did you hear him tell Hartigan where to find Fox? A I don't think I did.

Q Did you hear him say to Hartigan that Fox's trial at police headquarters was on and it may be over or may not?

A I did not hear him say that.

Q Did you hear him say for him, Hartigan, to go down to Headquarters first and if he did not find him there to go down to the Criminal Courts Building and he would surely

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find him there? A. I did not hear that.

Q Will you say that nothing of that kind occurred at the time your husband gave Hartigan the money? A I don't say it did not occur.

Q Your husband said yesterday that you were in the room when he gave Hartigan the money, that when he gave Hartigan the money that was what he said. Do you recall that?

MR. WHITMAN: Objected to.

THE COURT: Answer yes or no.

MR. GILBERT: I am reading from the testimony of yesterday.

Q Your husband said yesterday "I told Hartigan that Fox's trial was on at Police Headquarters" and so forth. Did you hear any of that? A No, I did not hear that.

Q What did you understand the money was to be given to Fox for? A Why, I did not understand it. I did not pay any attention to it.

Q Did you know of any business relations that Fox had with your husband at any time other than as patrolman in his precinct? A Yes sir.

Q Was there any other business relation? A Yes.

Q What? A Yes sir.

Q What was it? A Why, he was collector for my husband.

Q He was your husband's collector of graft. Is that the idea? A I guess that is what they call it.

Q Now, don't you know when your husband sent the money down by Hartigan to Fox that it was to be given to Fox for a purpose with relation to that situation?

MR. WHITMAN: Objected to.

THE COURT: She may answer the question if she understands it.

A No, I did not know just exactly what it was for.

Q Did not you, Mrs. Walsh. (Question repeated). A I say I knew it was to be given to Fox because I heard my husband say that, but I did not know what it was for.

Q Did you know that it had something to do with Fox's collecting of money for your husband? A I suppose it did.

Q That is what you understood? A I understood.

MR. GILBERT: That is all.

MR. TALLEY: May I ask another question, your Honor?

THE COURT: proceed.

CROSS EXAMINATION CONTINUED BY MR. TALLEY:

Q You have testified, Mrs. Walsh, in answer to Mr. Gilbert's question as to your knowledge of the eight hundred dollars which you have stated was given to John Hartigan. On the occasion when, as you testified this morning, you gave your husband a five hundred dollar bill and a one hundred dollar bill which you got from your safe, did you know what that money was for?

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MR. WHITMAN: I object to the question. She testified that she got the five hundred dollars and the one hundred dollars and gave it to Inspector Sweeney.

THE COURT: The question is whether she knew what it was for.

MR. TALLEY: I am referring to the six hundred dollars that the witness testified about this morning. I have a right to ask the witness whether she knew the purpose to which that was to be devoted.

MR. WHITMAN: The question here asked was, did you know that the six hundred dollars which you got from your husband was to go in a certain manner. The testimony is that she got one hundred dollars and handed it to Sweeney.

THE COURT: According to her testimony she handed six hundred dollars to Sweeney. Now, the question is, did she know the purpose for which that money was to be used.

A No, I did not know.

Q You did not know? A No.

Q Did you ask your husband about what the purpose of it was? A No.

Q You never asked him anything about handing him over the six hundred dollars? A I did not ask him.

Q You knew at that time that he was worried about the Sipp situation?

MR. WHITMAN: Objected to.

Q The fact that Sipp was out of town or likely to come

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back or would say something injurious of your husband, you were familiar --

MR. WHITMAN: I object to that as Sipp was not out of town and was not likely to come back.

THE COURT: Objection sustained.

Q You have testified before that this money was yours and your husband's that you had in the house, have not you?

A Yes sir.

Q Do you want us to understand that you handed over six hundred dollars of your money without asking where it was going or to what purpose it was to be devoted? A I did not ask what it was for or where it was going. My husband told me that he wanted it for Inspector Sweeney.

Q And you did not ask your husband for what reason he wanted to give it to Inspector Sweeney? A I did not.

THE COURT: She has answered that several times I think.

Q When you answered Mr. Wellman that the one hundred and fifty dollars was your own money ^{as opposed} ~~I supposed~~ to the eight hundred dollars as to which you testified, you mean that it was not the money in the envelope and that it was not Inspector Sweeney's money? A Yes sir.

Q Did you mean it was your own money and not your husband's? A Oh, no, it was my husband's money.

Q All of it was your husband's money? A Yes sir.

Q Did not you say in the Hartigan trial that whatever

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money there was belonged to you and your husband? Did not you so testify? A That whatever was my husband's was mine?

Q Yes. A I may have testified to that.

Q You know you did testify to that fact, don't you. Answer me yes or no? A Yes, I guess I did testify to that.

Q You don't guess about it. You know it. Is not that the fact. I press for an answer to this question. Will you answer the question? A What do you want me to answer?

Q I want you to answer the question which Mr. Moynahan will read to you.

THE COURT: He wants you distinguish between your knowledge and a mere guess on your part.

Q What is the answer?

THE COURT: If objection is made to the question the court will sustain it.

MR. WHITMAN: I object.

THE COURT: Objection sustained.

MR. TALLEY: Exception.

Q In the Hartigan trial you testified regarding the eight hundred dollars: "Q Was it your money? A My money, my husband's money".

MR. WHITMAN: I object to it as she did not testify to that.

MR. TALLEY: The record is here and Mr. Moynahan, the stenographer, is here, and will testify to it.

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THE COURT: Read the question to her from the record.

MR. TALLEY: That is what I have been doing.

Q I read from the record of the Hartigan trial, page 74. The statement is not as to the eight hundred dollars, but as to the one hundred and fifty dollars.

MR. WHITMAN: That is it.

Q "Q Where did you get this one hundred and fifty dollars that you say your husband asked you to get? A I got it". And Mr. Whitman objected, and the answer was "In the dresser drawer, bureau drawer." And then the question was "Whose money was it?" And Mr. Whitman objected, and the court allowed it. "Q Was it your money? A My money, my husband's money." Was that answer true?

MR. WHITMAN: That is exactly the answer she has given here.

Q "Q Yes. What was your husband's was yours? A Certainly". Did you so testify?

MR. WHITMAN: Objected to.

THE COURT: Objection sustained.

MR. TALLEY: Exception.

Q Was that testimony true?

MR. WHITMAN: The same objection.

THE COURT: Objection sustained.

MR. TALLEY: Exception.

MR. WHITMAN: That is all.

MR. TALLEY: That is all.

M I N A M I C H E L, a witness called in behalf of the people, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLARK:

MR. CLARK: Speak as loudly as you can, so that the twelfth juror there in the box can hear you, please.

Q What is your occupation, Miss Michel? A My occupation is trained nurse.

Q Where are you at present employed? A I am at present employed at Captain Walsh's house.

Q Are you acting as trained nurse in charge of him? A Yes.

Q How long have you been there? A I have been charge four months.

four months.

Q Do you remember the date when you went there? A Yes sir, the fourth of January.

Q Fourth of January this year? A Yes sir.

Q Have you been there continuously ever since? A Yes sir.

Q You know this defendant, Sweeney, the man in the black suit over there (indicating) in the corner? A Yes.

Q Where have you seen him? A Captain Walsh's house.

Q How often have you seen him there? A I saw him.

Q How frequently. How often a week? A Twice, three times -- sometimes more.

Q And do you remember the last time that you saw him, or about the last time that you saw him? I mean about when the last time that you saw him was? A Nearly the last time I

saw him, one Friday evening.

Q Do you remember when you saw him the last time there -- the last time that he was up at the house? Do you remember the very last time, about when it was? A Yes, one Friday.

Q First of all, do you remember when Judge Whitman was up there at the house? A Yes sir.

Q Have you ever seen Sweeney since that night ^{at} the house? A No sir.

Q Prior to that, had you seen him and met him prior to that? A Yes sir.

Q Do you remember what night it was that the District Attorney was up there? A Yes sir.

Q What day of the week, do you remember? A I think it was Wednesday.

Q Now, did you see Inspector Sweeney the week before that -- during the week before that? A Yes sir.

Q Do you remember any particular night when you saw him -- any night in the week -- what day it was? A Yes sir.

Q What day of the week it was? A I remember one Friday evening.

Q How do you fix the date as a Friday evening? A I know it was church evening, when Mrs Walsh was out to church.

Q Did the Inspector come while she was out? A Yes sir.

Q How long did he stay? A I think he stayed about an hour.

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Q About an hour? A Yes sir.

Q Did she come back before he left? A No sir; Inspector Sweeney waiting till Mrs. Walsh coming back.

Q Where was Inspector Sweeney during that time? A Captain Walsh's room.

Q Did Mrs. Walsh go into Captain Walsh's room? A Yes sir, I told her when she comes back.

Q You told her and she went back? A Yes, that Inspector Sweeney waiting for her.

Q You told her that Inspector Sweeney was waiting for her? A Yes sir.

Q She then went into the Captain's room? A Yes sir.

Q Did you see the Inspector later that night? Did you see him when he left? A No sir.

MR. CLARK: That is all.

MR. WHITMAN: No questions.

MR. WHITMAN: That is all.

EUGENE F. FOX, called as a witness in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLARK:

Q What is your full name? A Eugene F. Fox.

Q Where do you live, Fox? A 2027 Morris Avenue.

Q What is your occupation? A I have none.

Q How long have you been without an occupation? A Since

March 19th of this year.

Q What was your occupation prior to that date? A patrolman.

Q On the New York City Police Force? A It was.

Q How long had you been on the Police Force of New York City? A Sixteen years and four months.

Q That is from 1897? A From 1896 to 1913.

Q Were you ever assigned to duty as a patrolman in the 43rd police precinct? A I was.

Q When did your assignment on duty there as patrolman begin? A I believe it was in 1900.

Q In 1900? A I believe it was.

Q What were your duties when you were first assigned there? A The regular duties of a patrolman, patrol posts.

Q You were in uniform? A I was.

Q Was Captain Walsh at that time captain in that precinct? A He was not.

Q Were you still a patrolman there in uniform when Captain Walsh came to the precinct? A I was.

Q When did Captain Walsh come to the precinct, if you recall? A In 1907, June I believe it was.

Q Did Captain Walsh remain in that precinct for any period of time? A He did.

Q How long, if you know, did he remain as captain of the 43rd Precinct? A Until the 24th day of December, 1912.

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Q. Walsh, you say, came there in 1907? A. He did.

Q. And you were still on duty as a patrolman there, in uniform? A. I was.

Q. Did you ever have any relation with Walsh, other than the ordinary relations of a patrolman and his captain? A. I did.

Q. What were those relations?

MR. STANCHFIELD: That is over the same objection I made heretofore, that it is incompetent; also no foundation; irrelevant and immaterial.

THE COURT: The Court makes the same ruling.

MR. STANCHFIELD: Exception.

A. I acted as his collector.

Q. When did you begin to act as his collector? A. As soon as he reached there, or afterwards? A. No, it was in the early part of the year 1908.

Q. Had there been some one before you, who had been acting as the collector, to your knowledge in that precinct?

MR. STANCHFIELD: I object to that as hearsay, incompetent, improper and no foundation for it.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

A. There was.

Q. Who was it? A. John Sommers.

Q. What was the occasion, if you recall, which brought

about your becoming collector in place of Sommers?

MR. STANCHFIELD: I object to that in that form, as to what the occasion was.

MR. CLARK: I withdraw it.

Q What was the first talk you had with anybody about becoming collector, with whom and about when?

MR. STANCHFIELD: Just a moment, Mr. Fox.

THE COURT: The question is with whom and at what time. I will allow that question.

MR. STANCHFIELD: I shall not object to that.

Q Did you have a conversation with some person, with regard to becoming a collector? A I did.

Q With whom? A Captain Walsh.

Q At what time? A In the early part of 1908.

Q What was the conversation?

MR. STANCHFIELD: Over the same objection, if your Honor please.

THE COURT: same ruling.

MR. STANCHFIELD: Exception.

A Captain Walsh told me that I had raided an opium joint in the precinct, to which he had told patrolman Sommers not to allow to run. That if he did allow it to run, he would have him transferred from the precinct. So he says "I have done so". He said "And I want you to continue on with the work he was doing," and he handed me a list of places from

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which I was to collect, and from which I did.

Q When you first began to collect, who was the Inspector in the Sixth Inspection District? A Thompson.

Q Was the 43rd Precinct at that time in the Sixth Inspection District? A When I began to collect it was.

Q Did it continue to be one of the precincts in the Sixth Inspection District, during the balance of the time which you collected? A It did.

Q How long did you continue to collect? A Up until December 21st, 1912.

Q When you say "up to", do you mean to include december?
A Including.

Q How many places on the average did you collect from?
A They varied. Some months there would be fifteen, twenty, twenty five. They varied different times.

Q I asked you who was the first Inspector who was there while you were collecting and you said Thompson? A Yes.

Q Do you remember how long he stayed?

MR. WELLMAN: There cannot be any dispute when the different inspectors were there. We are about to admit it and it seems to me that that really is a waste of time.

MR. CLARK: I will be very glad to have it. Do you wish to have it stated right now?

MR. WELLMAN: The jury have heard it over and over again.

THE COURT: I thought later that we were going to agree

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these uncontradicted facts would be subject to stipulation?

MR. WILLIAM: That is what we are going to do.

THE COURT: Now we will refer to it, only for the purpose of fixing occurrences.

Q Did you know a hotel in the 43rd Precinct, on the southeast corner of 124th Street and Lexington Avenue? A I did.

Q Under what names did you know that hotel?

MR. WILLIAM: Now, there isn't any doubt about it. It is not disputed that it went under those three names.

Q Did you know the proprietor of the hotel? A I did.

Q Was he among the people from whom you were collecting, when you first began to collect? A He was.

Q Did you continue to collect money from him, as long as you were collecting? A I continued to collect from him, up to and including December, 1911.

Q Did you not collect anything from him thereafter? A I did not.

Q How much did you collect from him? A One hundred dollars a month.

Q Did you have any conversation with him about the purpose for which the money was paid? A I had no conversation with him, because --

MR. STANCHFIELD: ~~nevermind~~ the argument.

A (continuing) He was paying before this.

MR. STANCHFIELD: ~~nevermind~~. I object to the argument

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since you had a conversation. I don't care what it was.

Q How much money -- first of all, did you keep the money which you collected from each one of these places, separately, or did you lump it all into a lump sum and turn it over?

A I turned it all in at one time.

Q How much did the total amount to, on the average, and if it varied from time to time, what was the variation? A Oh, they varied. When collecting from Excise and pool rooms, it would amount up possibly to a thousand dollars a month, and when the Excise and pool rooms were discontinued, it dropped to between four and five hundred dollars a month.

Q When you got the money, the total amount, when did you collect it in each month? A When?

Q When, what part of the month? A Invariably about the first.

Q Was it always on the very first day of the month? A In some places and other places no.

Q Were there any places where you made weekly collections?

A Yes, there was.

Q Just one thing, Fox, when you started in there, collecting, were you in uniform? A I was in uniform, working 72 hours a week in citizen's clothes, by the captain.

Q That is to say you had a special detail in plain clothes of seventy two hours a week by the captain, and the rest of the time you were in uniform? A Yes.

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Q Were you subsequently assigned to plain clothes duty?

A I was.

Q When did that occur? A The latter part of January, 1908.

Q Well, that was before you began to collect? A Yes.

Q So that when you began to collect, you were in plain clothes? A Oh yes.

Q When you were assigned to plain clothes duty, was your assignment direct to the 43rd precinct? A Yes sir; when I was assigned to plain clothes duty, I was assigned and transferred to the Sixth Inspection District, and from there I was reassigned by the Inspector of the District, to work in the 43rd Precinct under Captain Walsh.

Q So that your primary orders came from the Inspector of the district, who assigned you to the captain of the precinct? A Yes sir.

Q Then you worked under the captain? A Yes sir.

Q How long did you continue on plain clothes duty there?

A To June 22nd, 1910.

Q And what happened to you then? A I was remanded from duty in plain clothes, to uniform, and transferred to the 40th Precinct.

Q Where is the 40th precinct? A 152nd Street and Amsterdam Avenue.

Q Is that also in the Sixth Inspection District? A It is.

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Q After you were transferred up there, did you handle this same collection business for Captain Walsh, down below? A I did.

Q What did you do with the money when you collected it?

A Turned it over to Captain Walsh.

Q Did you have any part of it yourself? A I did.

Q Was it always a fixed amount? A Well, there was times it was twenty per cent and later on it was fifteen per cent.

Q Did you make the deductions before you turned it over?

A At first I did not. After being with him about a year, I believe it was, he told me to take it out myself.

Q Did you check up the list of places each time, when you handed it over? A I did.

MR. WELLMAN: I do not like to object to this, but if your Honor thinks it is very material --

THE COURT: I think it is material.

MR. WELLMAN: Did he check up his list and all of that.

Q Do you remember the 18th of December, 1912? A I do.

Q Did you hear on that day anything with regard to George A. Sipp? A I was on reserve in the station house, in the neighborhood of about a quarter past one. A reporter from the Journal came and asked to see me. I went out in the office to see him. He had told me --

MR. STANCHFIELD: I object to what he said.

THE COURT: Objection sustained.

Q Did you have any communication with Headquarters that day? A I was notified about 1:30 P. M. that I was suspended, and ordered to report forthwith to the Chief Inspector's office.

Q Did you? A I did.

Q What time did you get down there? A Late in the afternoon.

Q Did you see anybody there whom you knew, when you reached there?

MR. STANCHFIELD: I object to that as irrelevant and immaterial.

THE COURT: I allow it.

MR. STANCHFIELD: Exception.

THE COURT: Yes or no.

A When I reached there, no -- not when I reached there.

Q How long did you stay there, Fox? A A couple of hours.

Q While you were there, did you see Captain Walsh or any of these four defendants?

MR. STANCHFIELD: I object to that as hearsay, irrelevant and incompetent.

THE COURT: I allow that.

MR. STANCHFIELD: Exception.

A I did.

Q Who? A Captain Walsh, Inspector Sweeney and Inspector Murtha -- Inspector Thompson I should say.

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Q What happened to you when you got to Headquarters, Fox?

MR. STANCHFIELD: I object to that in that form.

THE COURT: Yes.

Q What did you do then?

MR. STANCHFIELD: I make the same objection.

THE COURT: No, I allow that. If it is not relevant, I will strike it out.

A I was ordered before Deputy Commissioner Dillon.

Q Did you appear before him? A I did.

Q Were you there questioned by him? A I was.

Q With regard to what subject? A Regards to the statement in the papers, in relation to what Sipp had stated before the Aldermanic Committee.

Q What did you tell him?

MR. STANCHFIELD: I object to that as irrelevant, incompetent and improper and hearsay.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

A I told him I was innocent.

Q Did you deny you had ever taken any money from Sipp? A I did.

Q Or know anything about it? A I did.

MR. STANCHFIELD: That is all over the same objection.

THE COURT: Same ruling.

MR. STANCHFIELD: Including again the word "hearsay" on the

objection. Exception.

Q Your shield was taken away that day?

MR. STANCHFIELD: I object to that as hearsay, irrelevant and immaterial.

THE COURT: objection overruled.

MR. STANCHFIELD: Exception.

A My shield was taken away in the 40th precinct.

Q Before you went down? A Yes sir.

Q Did you have any conversation that afternoon with any of these defendants there? A I spoke to Captain Walsh that day and to Captain Thompson.

Q What was the conversation which you had with Captain Thompson -- you mean former Inspector Thompson, who had been in your district? A Yes. He told me not to worry, as everything would be all right.

Q You also had a conversation with Captain Walsh? A I did.

Q What was that conversation? A It was on the same strain.

Q Did you go down to Police Headquarters again? A I did, the following day.

Q What time, do you remember? A About 5 P. M.

BY THE COURT:

Q What was the date of this conversation that you say you had with the defendant Thompson, where he said not to worry, everything would be all right? A The 18th of December.

BY MR. CLARK:

Q The first day you were down there? A Yes sir.

Q The day that Sipp had testified? A Yes sir.

Q 13th of December, 1912? A Yes.

Q You say you went down there the next day? A I did.

Q What time did you get there? A About 5 P. M.

Q Did you see there that afternoon any of these defendants, or captain Walsh? A I did.

Q Who did you see of those present? A I seen Walsh, Murtha and Thompson.

Q Did you have any conversation with any of them, and if so with whom? A I had a conversation with Walsh and Thompson.

Q Did you see anyone else there at Headquarters that afternoon, when you were in the room? Were you in the room, first with those people for a while? A Yes.

Q This is all on the afternoon of the 19th? A Yes sir.

Q Did you see anyone else besides the persons whom you have mentioned there? A I did.

Q Whom did you see? A There was a policeman there named -- I believe his name was Donnelly and another man whom I afterwards learned was Jacob Rouss, an attorney.

Q Did you have any conversation with Rouss, yes or no?
A I did.

Q Prior to that time had you had this conversation with Walsh and Thompson, or was it after that that you spoke to

Walsh and Thompson? A I had spoken to Walsh prior to that.

Q What was your conversation with Walsh, which occurred prior to that time? A He had told me --

MR. STANCHFIELD: The same objection.

THE COURT: Same ruling.

MR. STANCHFIELD: Exception.

A (continuing) He told me that the elevator boy in the Twelfth Ward Bank Building, was expected down to testify as to my going into the building to see Sipp. He told me to prepare myself in case he was called in there to identify me, so as I could either deny or give a reason why I was in there, and I told him I didn't think I would be able to give a reason.

Q Go ahead. Was that all of that conversation? A That was all of that conversation.

Q Had you ever been to the Twelfth Ward Bank Building?

A I had.

Q Who had offices there that you knew of? A George A. Sipp and his son, Howard Sipp, had a combination office adjoining each other.

Q Did you make some of your collections from Sipp there?

A I did.

Q Then after you had that conversation with Walsh, did you have any conversation with Rouss? A I did.

Q What was that conversation?

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MR. STANCHFIELD: That we object to as hearsay; not binding upon these defendants; incompetent, immaterial and no foundation laid for its introduction.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

A He came over to me. I was sitting down. He says "Stand up; I want to talk to you." I stood up and he says "Now before you go inside, I want to give you a little bit of advice. Have nothing to say." I asked him who he was. He says "I am Mr. Rouss of the firm of Grant & Rouss." "Well" I says "I don't know whether you are or not." "Well, here is my card", and he handed me his card. I told him that I had no money to employ a lawyer and that if he was taking my case with expectations of getting paid from me, he had better drop me right where he was. He says "That's all right; you needn't worry." Well, I says "It worries me that much, that in case you did defend me, I couldn't pay you." He says "You needn't bother about the pay." I says "Who is going to pay you?" "Well" he says "You needn't bother about that." I says "Who sent you to me?" He says "Sweeney sent me to you." He says "Before you go inside -- when you go inside, my advice to you is this: Refuse to answer any and all questions put to you, under advice of counsel," and I complied with same.

Q That is, when you went in, you did refuse to answer

questions? A I did.

Q Did Rouss go in with you? A He did.

Q Did he stay there throughout the time while you were inside? A He did not.

Q Was he requested to leave? A He was.

Q And did leave? A He did.

Q Before Rouss came to speak to you, did you see him speak to anyone else? A I seen him speaking to Captain Walsh.

Q Anyone else? A I think -- I am not sure.

Q If you are not sure, never mind. A I am not quite sure.

Q How late did you stay there that afternoon? A It was after seven o'clock.

Q Were any other witnesses called that day? That is, was anyone else summoned into the room in which you were taken, after you left or before? A Before I was examined, Thomas Dorian was examined.

Q Who was Dorian? A He was the manager of the hotel, after Sipp, from whom I collected, after stopping collecting from Sipp.

Q When did you begin to collect from Dorian? A About the first of January, 1912.

Q And you collected from him through 1912? A I did.

Q So you continued to make collections from the building, all through 1912? A I did.

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Q At the same rate? A No.

Q What was the new rate? A I believe in January and February, it was one hundred dollars, and then after that fifty dollars a month.

Q Did you have any conversation with anyone about the change in rate? A I did.

Q With whom? A Captain Walsh.

Q What did Captain Walsh say to you? A He told me to tell Dorian that Inspector Sweeney would not take any more of the money from that place, and that I was to cut it down to fifty dollars, and that he would take care of the place himself, and if it were agreeable, all right, and if not, to accept nothing from him.

Q Did you tell that to Dorian? A I did.

Q Was that after Sweeney's man had raided Sipp's Hotel at 116th Street and Third Avenue? A It was.

Q When was it that that raid occurred, if you know? A In the latter part of 1912, I believe December. I am not quite so sure -- 1911, I should say.

Q So you say Dorian was down there that afternoon, Thursday, December 19th, and you saw him go into the witness room? A I did.

Q First of all, Fox, have you told us all about all that you can recall of the conversation with Walsh, about the change in the rate of the Baltic or the Avonel I guess at that

time, was it not? A I don't believe it was the Aynal at that time. I think it was the Baltic. I think it was after that it was changed.

Q Have you told us all that you can recall about the conversation about the change in rate, and about his taking care of it himself? A First he told me that Sweeney had told him that he wouldn't accept any more money from that place; that he was a bad and dangerous man and that he stopped taking it from then on from that place altogether.

Q Did he give any reason as to why? A Well, he says that he was running a place in 116 th Street and Third Avenue, and "I closed him up there and he has written letters down to the District Attorney's office about me and about hotels on the west side, which he says they are running and that I am taking protection from."

MR. STANCHFIELD: Still over the same objection. I renew the objection and exception to that evidence, the same as before.

THE COURT: I will strike that out, if you move to strike it out, because that is not part of this transaction. This is only competent on his question of motive and so far as that is hearsay, it ought to go out. This cannot be taken on the ground that it is part of the alleged conspiracy set up in the indictment.

MR. STANCHFIELD: Mr. Battle prefers that to stay in. It

is up to him.

THE COURT: I did not rule, because there was no objection made to it, but I took it on the understanding that it was the different character of proof.

Q Is this which you are telling us, a conversation which you say Captain Walsh told you he had had with Inspector Sweeney? A It was.

Q Who else went into the Commissioner's room besides Derian? A Captain Walsh went in.

Q Anybody else? A And Inspector Murtha.

Q That was Thursday the 19th? A It was.

Q Did you go down to Police Headquarters again that day?

THE COURT: Before you take up that, I understood the witness to say that on this afternoon he had a conversation with the defendant Thompson. Is that correct?

THE WITNESS: On the 19th, yes.

Q What was the conversation with Thompson? A He told me not to worry, the same as he did the day before. Just to keep stiff and everything would be all right.

Q You say you were not down to Police Headquarters again that week? A No.

Q Did you see Rouss again that week? A I did.

Q What day or days? A I seen him the following day, the 20th, at his office.

Q Did you see him again that week? A Yes, I seen him on

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the 21st.

Q Did you have any conversation with Walsh, about Rouss?

A I did.

Q When? A At his home. I believe it was of a Sunday, the following Sunday of that same week. The 22nd, I believe it was.

Q How did you happen to go to his home? A He had told me the night before when I had met him in a barber shop at 126th Street and Third Avenue, that he was sick and was going to report sick.

Q And you went down to see how he was? A I did.

Q What conversation did you have with him about Rouss?

MR. STANCHFIELD: Over the same objection before, that there has been no foundation laid for the introduction of that testimony; hearsay, incompetent and improper.

THE COURT: I will receive that.

MR. STANCHFIELD: Exception.

A He asked me how I came to engage Grant & Rouss. I says "I didn't engage him; he was sent to me." He says "Who sent him to you?" I says "Rouss said Sweeney sent him." So he says "Did he make any fee with you?" "He did not." "Well" he says "Don't you think you ought to find out what the fee is?" I says "I asked him and he refused to give me any." He says "If I were you", he says "I would find out what the fee is, because" he says "you never can tell after this thing

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would be all over they would hand you in a bill that couldn't be met, and you knew" he says "I am going to help pay your counsel, too;" so he says "I haven't got very much money either."

Q And did you subsequently have any conversation with Reuss as to the amount of the fee? A I did.

Q Was an amount fixed? A Yes.

Q When was the conversation, first? A A day or so afterwards.

Q Was an amount fixed?

MR. STANCHFIELD: I object in that form.

THE COURT: Strike it out.

Q What was the conversation.

MR. STANCHFIELD: I make the same objection as before to that.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

A I told Rouss that Captain Walsh had asked me who sent him to me and I told him that Rouss, meaning him, had told me that Sweeney had sent him and he didn't he give me any answer on that at all; so I asked him again what my counsel fee would be. Well, he says "It will be \$500.00".

Q Was that after you had been arrested, or before, Fox?

A I believe that was before I was arrested.

Q Do you remember the 24th of December, the day before Christmas? A I do.

Q Did you go down to Police Headquarters again that day?

A I did.

Q Whom did you see at Police Headquarters? A Commissioner Dillon, Inspector Schmittberger and Rouss, Commissioner Dougherty and the officer that arrested me.

Q Well, was that the day you were arrested? A It was.

Q Before you were arrested, did you have a hearing?

A I did.

Q Where? A In Commissioner Dillon's room.

Q That was a police hearing? A Yes.

Q Not a Magistrate proceeding? A No.

Q Who conducted that hearing? A Commissioner Dillon.

Q What happened at that hearing? A He reinstated--

MR. STANCHFIELD: Same objection; as irrelevant, hearsay, incompetent and improper.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

A (Continuing) He re-instated me and handed me a shield. Then he asked me the same questions as he had asked me on the first day, in relation to the Sipp matter. I refused to answer him under advice of counsel.

Q Was your counsel present at the time? A He was. Then he read off a rule--a paragraph in the Manual which relates to a policeman answering all questions truthfully and honestly. After reading that, he repeated his question to me and I refused to answer under advice of counsel. He then ordered that I make a written report, which I refused to do under advice of counsel. I was then told to leave the room and report to Chief Inspector Schmittberger's office, which I did.

Q Did Rouas go down with you? A He came down afterwards.

Q What, if anything, happened there? A I was placed under arrest.

Q Who arrested you? A Detective Talk.

Q Did he make any statement to you when he arrested you, as to what you were arrested for?

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MR. STANCHFIELD: I objected to that as hearsay, incompetent and no foundation for it.

THE COURT: Yes. I will sustain that objection.

Q What did you do after you had been arrested, or after you had been told you had been under arrest? A Well, before we went up to the Magistrate's Court, I tried to get a bondsman over the telephone.

Q Then what happened? A I was placed down in the pen down in the Magistrate's Court.

Q Well, we left you up at Police Headquarters. Where did you go from there? A We came down here to this court here.

Q To this Criminal Court Building? A Yes, sir.

Q And you were taken across the way to the Magistrate's Court? A Yes.

Q Was Reuss with you? A All the way down.

Q And Talk? A Yes.

Q What happened when you got down here? A We went into the Magistrate's Court, and it had adjourned, so we went outside and I used the public telephone in this building to try to get a bondsman.

Q Had you at that time been informed of any charge against you? A Yes, Talk told me that the charge was bribery.

Q Had you had any formal charge exhibited to you--any

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written paper at that time? A Up to that time, no.

Q Subsequently did you see a written paper? A Up to that time.

Q Subsequently? A I did.

Q Prior to that time--when was that, in the afternoon?

A The hearing in the Magistrate's?

Q No, when you saw the complaint? A What complaint do you mean?

Q The information that was lodged before the Magistrate, charging you with bribery? A In the afternoon.

Q And prior to that time you had been put in the pen, you say? A I was.

Q When you saw the complaint, was that after the Magistrate came on the bench in the afternoon? A Yes, sir.

Q You were brought up from the pen? A I was.

Q Tell us what happened then? A I was brought up from the pen and arraigned before Magistrate Barlow and stated that he was arraigning me on a short affidavit, owing to the complainant not being present, on the charge of accepting a bribe from one George A. Sipp.

Q Was Ralph present at the time? A He was.

Q Was there a hearing had then? A A short hearing.

Q No witnesses called, were there? A No.

Q Was there any announcement made as to when the hearing

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would be had? A It was adjourned until the 27th.

Q Until Friday? A Yes.

Q This was all Tuesday afternoon? A Yes, sir.

Q Did you get bail that afternoon? A I did not.

Q Where did you spend that night? A In the Tombs.

Q When were you bailed? A Christmas afternoon.

Q The following day? A Yes, sir.

Q Who came down and bailed you? A Tom Lloyd.

Q Tom Lloyd; who is Tom Lloyd? A A saloon keeper in Harlem, 125th Street; formerly ran a pool room.

Q Did you ever collect money from him? A I did.

Q Was that part of the money you turned over? A I did.

Q Was it? A It was.

Q When you got out on Christmas day, what did you do?

A I went right to home first. From there I went to the telephone and called up the station house and I was told to report--

MR. STANCHFIELD: I object to that.

Q After you telephoned, what did you do? A I was told to report to the 40th Precinct Station House, which I did.

Q Now, the following morning was Thursday, the 26th.

Did you go down to Headquarters that morning? A I did.

Q When did you get your orders to go that morning to Headquarters? A It was either the night before, or

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early that morning. I am not quite so sure of that.

Q You are not certain which one? A Not as to when I received the notice.

Q Did you communicate with Reuss before you went down to Headquarters? A I did. I called him up at his home residence.

Q ~~When~~ Did you meet him when he got to Headquarters? A He came there shortly after I did.

Q What happened at Headquarters that morning? A I signed admission of the service of the charges.

Q That is formal charges were filed against you--served upon you? A Yes, sir.

Q After you left Headquarters, where did you go? A I went back to the station house and reported.

Q That is up to the 40th Precinct? A Yes, sir.

Q Did you see Reuss again that day? A I did.

Q This was the day after Christmas? A It was.

Q Did you have any conversation with him? A I did.

Q What was the conversation?

MR. STANCHFIELD: That is under the same objection, if your Honor please. No foundation for it, hearsay and incompetent.

THE COURT: I will take that.

MR. STANCHFIELD: Exception.

Q When was it, first? A The 26th, around four o'clock I believe.

Q What was the conversation?

MR. STANCHFIELD: Same objection as before.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

A Rouse told me he had good news for me. He told me that Sipp was willing to go away, but he wouldn't go away--that he was asked and would go away, rather, but he wouldn't go away at his own expense. Now he said "You ought to see Captain Walsh", and he says "Newell told me that he wants \$1,500." but he says "While you are at it--"

BY MR. WHITMAN:

Q Who told you? A Pardon me. Rouse told me that Newell had told him that Sipp was \$1,500., and he said Rouse said "while you are at it, make it \$2,000., \$500. for counsel fees." I told him I would.

BY MR. CLARK:

Q You would what? A Speak to Captain Walsh about it.

Q Was that all of that conversation that you recall?

A That is about all.

Q What date? Mr. Wellman wishes to know the date?

A The 26th of December.

Q Did you see Captain Walsh after that? A I did.

Q When? A That evening at his house.

Q Had a conversation with him? A I did.

Q What was the conversation? A I told him what Rouss had told me. He said "You give me time", he says, "I am sick, but give me time and I will try and get in touch with Inspector Sweeney first and ~~see if~~ about getting Rouss you and him together."

Q Was that all of the conversation that night that you recall? A That was all.

Q Did you see Rouss again? A I did.

Q When? A The following day?

Q Did you have a talk with him that day? A I did.

Q That was Friday the 27th? A It was.

Q That was the day to which your hearing had been adjourned? A Yes, sir.

Q When did you see him? A At his office, around one o'clock.

Q What was the conversation you had with him? A Well, we had no conversation then that day.

Q Did you tell him anything about having seen ~~Rouss~~ Walsh?
A I told him that I had. Oh, yes; I told him that I had seen ~~Rouss~~ Walsh, and Walsh told me that he would try to get them at sum together which Rouss had asked me to get.

Q And did you come up to the Magistrate's Court over here in this building, that afternoon? A I did.

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Q What time? A Two o'clock.

Q Reuss again with you? A He was.

Q Who was sitting in the Magistrates Court that day?

A Magistrate Kernochan,, I believe.

Q Was Sipp there that day? A He was not.

Q Was Dorian there? A He was not.

Q What happened in the Magistrates Court that day?

A Reuss came to me just prior to the Magistrate sitting and told me I would have to get to get \$200. or \$300. to get Sipp on his way South. I told him I thought it was impossible. Just then my brother came into the Court and I asked my brother--

MR. STANCHFIELD: I object to that.

THE COURT: Yes, I will sustain the objection to that.

Q Did you have a conversation with your brother?

A I did.

Q Before I go any further, I will show you this paper here. I will exhibit it first to the attorney for the defendants, if the Court please.

MR. STANCHFIELD: This is the 28th you are talking about?

THE WITNESS: The 27th.

MR. STANCHFIELD: Still the 27th?

THE WITNESS: Yes.

(Paper handed by Mr. Clark to defendants counsel).

MR. STANCHFIELD: I do not see the probity or force of the paper. The witness has already testified he was arrested on an affidavit made by Talk. What is the use of putting it in?

THE COURT: I do not think it makes much difference.

MR. WHILMAN: We have just stipulated with the District Attorney.

MR. STANCHFIELD: There isn't any question about the fact and therefore I do not see that it is necessary to encumber the record.

MR. CLARK: I simply want to make it perfectly clear what the charge was.

THE COURT: Mark it for identification now.

(Said paper was marked PEOPLE'S EXHIBIT 2 for Identification.)

BY MR. CLARK:

Q Is that the complaint (Handing People's Exhibit 2 for Identification to witness) which Talk verified against you, on which you were held on the 24th? A That is the complaint which was read off.

MR. WHILMAN: While Mr. Clark has been examining, the Assistant District Attorney and myself have spent some time here and have stipulated to nearly all of these facts.

THE COURT: That will facilitate us very much.

Q You said you had a conversation with your brother?

A I did.

Q Was that before court adjourned? A It was.

Q Before Court was called that afternoon? A It was.

Q Did you see your brother again that afternoon? A I did.

Q Where? A Rouss' office.

Q Did you go down to Rouss' office after the court adjourned? A I did.

Q Any one go down with you? A Mr. Rouss.

Q When you got there, did you see your brother? A I did.

Q Did your brother give you anything? A He gave me \$250.

MR. STANCHFIELD: I object to that as hearsay.

THE COURT: I will note your objection, as if it had been made before the answer.

A (Continuing) He gave me \$250.

THE COURT: I will note Mr. Stan chfield's objection, overruling it and exception of counsel before the answer. Now go on.

THE WITNESS: He gave me \$250.

Q What brother was this? A My brother James.

Q You are Eugene? A I am.

Q And this was James? A Yes, sir.

Q What did you do with the \$250.? A I gave it to Rouss.

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Q Did you have any conversation with Rouss at that time?

A Yes, sir.

Q What was the conversation? A He told me he was going to bring that over to Jersey, to give it to Newell, to give it to Sipp, to go away with.

Q Did you have any further conversation with Rouss that afternoon? A On the 27th?

Q This is on the 27th, Friday the 27th? A Well, he asked me to get the balance of the money that he asked me about the day previous.

Q Did you have any conversation in which the name of Howard Sipp occurred? A On the way down to the Court, after the case was adjourned in court.

Q You mean from the court? A From the court to his office. Sometime previous, some few days previous to that, Rouss had told me that he had been informed by Newell, that Howard Sipp had claimed witnessed me accept money from Howard Sipp. I told him I didn't think that was possible, so I says "If such were the case this fellow would make a bad witness against me." "Well," he says "we will get an affidavit from him to swear--"

Q From whom? A From Howard Sipp to swear that he never gave you money or ever seen you take money from any one."

BY THE COURT:

Q This is what Rouss said to you? A Rouss said to me

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on the way down to his office.

BY MR. CLARK:

Q Was anything said about the person with whom that should be taken up? A He told me to speak to Captain Walsh about it.

Q Did he say whether or not he was going to speak to any one? A He said he would speak to Mr. Newell about getting Howard Sipp to make that statement.

Q Now this was all on Friday afternoon that this latter conversation came up? A It was.

Q After your hearing was adjourned, when did you see Captain Walsh again, do you recall? A I saw Captain Walsh the following day.

Q Where? A At his home.

Q Did you have any conversation with him? A I did.

Q What was the conversation? A I told Captain Walsh at his home the following day, that I had borrowed \$250. from my brother and had given it to Rouss, to be given to Newell, to advance to Sipp to get away--to go away, and that Rouss had asked me to get the balance of that money and also to try and get them a fee. I also told Captain Walsh about Howard Sipp claiming that he had a friend witnessed me accept money from him, but he says "You don't think you ever seen any one see you accept money, do you?" I says

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"I hardly think so." I says "Mr. Rouss is going to ask Mr. Newell to get Howard Sipp to make an affidavit, to the effect that he never gave me money and never seen any one else give me money." Well, he says "I don't approve of that method."

Q This was Walsh? A Walsh. He said Howard Sipp is a young fellow, flighty. He said they could get any one else to go over in Jersey and make an affidavit, stating it was Howard Sipp, and that Howard Sipp could come back at any time he felt like it and plead you or else make a full clear statement and his statement would be worse than the other.

Q Was that all of the conversation? A That was practically all, yes.

Q Did you see Rouss on that day, this is Saturday?

A Yes, sir.

Q Where did you see him? A I seen Rouss at his office.

Q Did you have any conversation with him? A I did.

Q Do you recall the conversation? A He asked me if I had got the balance of that money. I told him I had not. He says "Can you get it?" I says "I hardly think so. Saturday afternoon the banks are closed and I don't think anybody would be able to raise that amount;" he says "We have got to get it". So I left his office to meet him the next day.

Q When did you see Walsh again? A I seen Walsh that night.

Q Where? A At his home.

Q Have any conversation with him? A I told him they wanted the balance of that money.

Q What did he say? A He says he would do all he could to get it together.

Q Anything further happen on that day that you recall, Saturday? A No, not on that day.

Q Now the next day was Sunday, the 29th? A Yes.

Q Did you see Rouss that day? A Yes, I did.

Q When did you first see him? A I seen him at his house in the neighborhood of between one and two o'clock, in the afternoon.

Q Where is his home? A On St. Nicholas Avenue. I think it is around 143rd Street somewhere there, around the One Hundred and Forties somewhere on St. Nicholas Avenue.

Q Do you remember the number? A No, I do not.

Q Did you have any conversation with him? A Rouss told me that he had received a telephone communication from Newell.

MR. STANCHFIELD: This is still over the same objection.

THE COURT: Yes. This comes within the ruling. I will take it.

MR. STANCHFIELD: Exception.

Q About what time of the day did you say? A Between one and two in the afternoon. He said he had received a telephone communication from Newell, to meet him somewhere down in 125th Street and we would go down together part of the way. We went out through a rear entrance from the building in which he lived, and went through 135th Street to 8th Avenue. He took a surface car. Before taking it he says "Meet me at 130th Street and St. Nicholas Avenue." I walked down to 155th and Eighth and across from that place to St. Nicholas Avenue to 130th, where I waited till Mr. Rouss came back, which was in the neighborhood of half past three or a quarter to four. From there we walked up slowly to Grant's home.

Q Where did Grant live? A On Convent Avenue. I think it is 143rd and 144th Street.

Q Did you see Grant there? A There we met Mr. Grant.

Q Did you have any conversation there? A Yes, first of the case, owing to the trial going on the following day was spoken of. Then the proposition of getting that money was again spoken of to me by Mr. Rouss.

THE COURT: Tell us what was said?

THE WITNESS: Mr. Rouss told me to get the balance of that money by to-morrow. He said "You go up and see Captain Walsh and put it up to him good and stiff. Tell him you

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have got to have it," and he says "Let me know to-night at my home how you make out." I went to Captain Walsh's house and seen Captain Walsh, and I told him that Rouss wanted the balance of that money to be turned over to Sipp. He said "I will do the best I can, but I hardly think I will be able to get it by to-morrow morning." I went home, had something to eat and went to Rouss' home and told Rouss.

Q This is Sunday night? A Sunday night, yes, what Walsh had said. Well, he says "If he feels that unconcerned about it, its all up to him. It is none of my affair." So I left him and went home to meet him the following morning.

Q Where were you going to meet him the following morning, meet Rouss? A Meet Rouss at Police Headquarters.

Q That is the charges against you were to be heard the next morning? A They were.

Q Was a copy of the charges served upon you at the time?

MR. WELLMAN: Admitted they were.

MR. CLARK: Will admit this (indicating) is a copy of the charges?

MR. WELLMAN: Yes.

MR. CLARK: I will have that identified in the same way.

MR. STANCHFIELD: If we are making these stipulations, what is the use of making these exhibits?

THE COURT: It will only take a moment to mark them

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for identification, and if you should not agree as to the form of the stipulation, then we will have to recall these witnesses.

(Said documents were marked PEOPLE'S EXHIBITS 3 and 4 respectively for Identification.)

Q Now the next morning was Monday morning, the 30th?

A It was.

Q And you had first this hearing on at Headquarters?

A Yes, sir.

Q Did you go right to headquarters? A Yes.

Q Did you see Rouss there? A I met him out in front of Inspector Schmittberger's office.

Q That is down at Headquarters? A Yes, sir.

Q What happened there at Headquarters that morning?

A From there we went up-stairs to the Trial Room and the trial of insubordination was heard.

Q For refusing to answer questions? A Yes, sir.

Q Was that hearing completed? A It was.

Q What time did you get through? A Well, the hearing took in the neighborhood of an hour or an hour and a half. Got through around half past eleven, I believe.

Q Then what did you do? A I had an appointment to meet Mr. Rouss at his office at one o'clock.

Q Did you go down there? A I did.

Q Did you have any talk there with him? A I did.

Q What was the talk? A He says "I have been expecting some one here. I have been expecting a telephone call that the balance of that money--about the balance of that money was to come here, but as yet I have received none," but he says "We may hear something when we get up to Court."

Q Did you go up to Court? A I did.

Q What time did you get to court? A In the neighborhood of two o'clock.

Q Before you went into the court room, did you meet any one here? A I met Hartigan.

Q John Hartigan? A Yes, sir.

Q Had you known Hartigan for some time? A I had.

Q Had he been over in the 43rd once? A He was.

Q Did you have a conversation with Hartigan? A Yes, sir.

Q What was the conversation?

MR. STANCHFIELD: I object to that as incompetent, irrelevant, hearsay, immaterial and no foundation laid for its introduction.

THE COURT: I will take that. Those declarations I think are just the same as verbal acts. On that theory I will take it.

MR. STANCHFIELD: Exception.

A He met me on the top of the stairs. He says "Gene--"

Q Right over across the way? A Leading into the Magistrates court there. He says "I have a package here from the Captain. There is \$950. in it, the balance of the \$250. that has already went across." I told him that I wouldn't accept any packages or any envelopes or anything else at the present time, as I didn't know who might be watching me. Well, he says "I was told to deliver it to you and have you count it and see that it was correct." I told him I would not. Well then he says "What will I do with it?" I says "There is my brother standing over there. You might give it to him", I says and he will give it to me.

Q Is that what you said? A Yes, so I seen my brother and I asked him to take it and meet me at Mr. Rouss' office. Him and Hartigan left the building and my brother afterwards told me that they had went into--

Q Never mind what your brother told you. What happened to you after they left? A The trial of the hearing was put on and Magistrate Kernochan dismissed the complaint.

Q Was Sipp there? A He was not.

Q Was he called for? A He was.

Q And there was no answer? A No answer.

Q Then the case was dismissed? A It was.

Q And you were discharged? A I was discharged.

Q What did you do when you left the court? A I went downstairs and had a talk with Mr. Rouss.

Q Then what did you do? A I told Mr. Rouss--

MR. STAN CHFIELD: I object again at this particular period, on the ground that that is incompetent, because the confirmation of that transaction under the evidence is irrelevant, incompetent and improper.

THE COURT: I will take it. If it appears not to be connected with this transaction after I have heard it, then I will strike it out.

MR. STANCHFIELD: Exception to the ruling.

A I told Mr. Rouss that there was \$950. brought down. That my brother was taking it down to his office and the party that brought it down told me it was the balance of the \$250. that already went across. He says "That's all right." He says "I understand that." He says "Newell told me that Hussey told him it would be \$1,200."

Q Did you go down to Rouss' office? A I did.

Q Was your brother Jim there? A He was.

Q What happened when you got to the office? A My brother handed me \$950.

Q What did you do with it? A I gave it to Mr. Rouss.

The Court duly admonished the Jury and a recess was then taken until 2:15 o'clock, P. M.

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(AFTER RECESS)

DIRECT EXAMINATION OF THE WITNESS EUGENE FOX RESUMED.

BY MR. CLARK:

Q As I recall it, before adjournment, we had just been over the events of Monday the 30th of December, when you were discharged from the magistrate's Court and had been down to Rouss's office, and paid over the nine hundred and fifty dollars? A Yes sir.

Q You had then been discharged in the magistrate's Court?

A I had.

Q Were there any further proceedings taken against you at Headquarters? A There was.

Q What happened at Headquarters? A I was tried -- there were several hearings on the bribery charge.

Q Were the witnesses produced? A No, they were not. Some witnesses were but some were not.

Q Who was produced? A There was a named Michaels was produced there and bank people.

Q But nobody there to testify that you had ever received any money? A No.

Q And was there ever any decision rendered that charge of accepting bribes? A There was not.

Q Was there ever any decision rendered on the charge as to insubordination? A There was not.

Q Were there any further criminal proceedings taken against

you besides this Magistrate Court proceeding? A There was.

Q And do you recall the date -- I suppose you followed these matters more or less in the papers at the time? A I did.

Q You knew in that way of the arrest Sipp? A I did.

Q And of his subsequent release? A I did.

Q And of the time that he came before the Grand Jury?

A I did.

Q At the time that you read that he came before the Grand Jury did you see Rouse again? A I seen him the day prior.

Q The day before? A Yes sir.

Q That is, when it was rumored that Sipp was coming back?

A Yes sir.

Q Did you have a conversation with him? A He wanted me to come down to his office the following day and I told him I did not think it was advisable for me.

Q That is the day that Sipp was expected to testify?

A Yes sir.

MR. STANCHFIELD: What day was that?

MR. CLARK: That was the 14th of January.

Q The 14th of January was Tuesday? A Yes sir.

Q And you did not go down to his office that day? A I did not.

Q Did you go down the next day? A I went down there about between ten and eleven.

Q On the 15th? A Yes sir.

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Q Wednesday the 15th? A I did.

Q Who did you see down there?

MR. STANCHFIELD: I object to that upon the ground that the conspiracy, if any there was, had now been completed.

THE COURT: Not in so far as the allegations of the indictment relate to Fox. It is relevant on the others as well.

MR. STANCHFIELD: We object to this as incompetent, irrelevant, immaterial.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

Q (Question repeated)? A I seen Mr. Rouse, Mr. Grant and Tom Lloyd.

Q Is Tom Lloyd the same man that was down before when you got bail? A Yes sir.

Q And what did you do that day? A Mr. Grant, Lloyd and I went up to the Criminal Court Building and there I was surrendered.

Q That is, to this building here? A Yes sir, in this court.

Q And in this court room? A Yes sir.

Q You were surrendered into custody here? A Yes sir.

Q What time was that, do you remember? A It was around I think twelve o'clock noon or possibly a little after.

Q And were you bailed out that afternoon? A No, I was not.

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Q Did anything happen with regard to bail that afternoon?

A Prior to my indictment I had asked Lloyd if he could produce the same bondsman that I had when I was arrested before. And he told me he would. And he had Pauline Krauss in court to go on my bond. And Justice Goff would not accept her bond.

Q What happened to you? A I went to the Tombs.

Q How long did you stay in the Tombs? A Until Saturday afternoon.

Q Did you see any of these defendants during the period while you were in the Tombs? A I did not.

Q Did you have any communication with them? A I did not.

Q Did you have any communication with Walsh? A My brother came into the Tombs, I believe it was Friday, and I told him that if --

MR. STANCHFIELD: Objected to.

THE COURT: Objection sustained.

Q You had a conversation with your brother? A I did.

Q When were you released from the Tombs? A It was about 4:30 on the 18th of January.

Q That was Saturday? A Yes sir.

Q How were you released? A Cash bail.

Q Cash bail was deposited? A Yes sir.

Q Who deposited the bail? A Mr. Grant.

Q Were you present when the money was put up? A I was.

Q What was the amount? A Five thousand dollars.

Q Did you see the money? A I did.

Q In what form was it? A In one thousand dollar bills.

Q Just five one thousand dollar bills? A It was.

Q Your money? A No sir.

MR. WELLMAN: I move to strike all that out.

THE COURT: Motion denied for the present.

MR. WELLMAN: Exception.

Q Do you know whose money it was?

MR. STANCHFIELD: I object to that as incompetent and hearsay.

THE COURT: Objection sustained. You can show any conversation or anything of that kind. I will take the conversation.

MR. CLARK: I want to show not knowledge through any conversation but ignorance through the lack of any conversation.

THE COURT: He said it was not his money.

MR. CLARK: And I wanted to know if he knew anything about the money, where it came from, -- to show that he did not know, not that he did know.

THE COURT: I will let my ruling stand.

Q That was the 18th, Saturday? A It was.

Q The 18th of January? A Yes sir.

Q Did you see Walsh after that? A I think I seen him

about the 23rd -- the following Wednesday I believe it was.

Q Where did you see him? A At his home.

Q Did you have any conversation with him? A I did.

Q What was the conversation?

MR. STANCHFIELD: Objected to on the ground that the conspiracy was consummated and the evidence is irrelevant and immaterial.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

Q You may answer. A He said he felt very sorry that I had been detained in the Tombs so long, that he done all he could to get me out. And he says "The least that might be done for you, that you ought to be taken care of". I says "That is true, as I have every reason to believe that if I go to trial I will be convicted, and I have no money and my family has no income." He says "Well, Gene, I think the least you should get would be ten thousand dollars"; and he says "I will speak about it; but" he says "in the meantime I want you to get in touch with somebody who you think would convey your message to Sweeney or the other inspectors to this extent: that if you are not taken care of you would not stand and go to trial." I told him I did not know of anyone, but I said "Supposing I would take and tell Mr. Rouse?" He says "That would do."

Q This was after you had been released from custody on

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the five thousand dollars bail? A It was.

Q Who was your attorney when you were surrendered here?

A Mr. Grant.

Q He appeared with you? A He did.

Q And entered himself as attorney of record? A Yes sir.

Q This was Mr. Rouss's partner? A This was Mr. Rouss's partner.

Q Do you remember whether the counsel was "Grant & Rouss" on your indictment or just "Grant"? A I don't remember that I have seen the indictment.

Q Did you subsequently have a conversation with your counsel? A I did.

Q Whom did you see? A I was in Mr. Grant's office talking to Mr. Rouss and Mr. Grant when the telephone bell rang. It was on the 27th, I believe, of the month.

Q The 27th would be Monday? A Yes, Monday.

Q The Monday before you pleaded guilty? A Yes. It was in the neighborhood of noontime, possibly a little bit later. Whether it was Mr. Grant or Mr. Rouss I am not quite so sure, told me that --

MR. STANCHFIELD: I object to that now.

THE COURT: Were they both there?

THE WITNESS: They were both there.

MR. STANCHFIELD: We object to it as incompetent, irrelevant, immaterial and hearsay.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

Q Go ahead? A That Captain was Thompson on the telephone and he wanted me to send a representative to meet him the following morning, for me to designate the time and place, also to get a description of the person whom I was sending. I described the man whom I was sending, to Mr. Rouss or Mr. Grant; and they sent it back over the telephone to Captain Thompson.

THE COURT: Strike out the last part of the sentence "to Captain Thompson".

Q You heard whoever it was that was on the 'phone, speak?

A No, I did not hear them speak.

MR. STANCHFIELD: I ask to strike out the whole conversation.

THE COURT: I will deny the motion to strike out the whole of it and will allow that portion of it to stand that relates to the conversation with Rouss in his presence, and Grant. So far as it relates to the answer that they were said to have made, I will strike that out, and the jury are instructed to disregard it.

MR. STANCHFIELD: I ask to strike it all out on the ground that there is no proof in the case of any legal sort or character, that the person who was on the other end of the wire talking was the defendant Thompson.

THE COURT: I am taking it as a conversation that this defendant had with Grant & Rouss. The motion is denied.

MR. STANCHFIELD: Exception.

Q What was the description you gave of the man you were going to send? A That he was in the neighborhood of 5 feet 6, light complexion, and one of his eyes was defective.

Q Who was the person whom you described? A My wife's ~~nephew~~ nephew.

Q What is the name? A Al Nelson.

Q Did you subsequently see Al Nelson? A I seen him that night.

Q Where? A At my home.

Q Did you have a conversation with him? A I did.

Q What did you say to him?

MR. STANCHFIELD: Objected to as incompetent, irrelevant, immaterial and no foundation laid for its introduction.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

Q Just one moment. Did you give any name to Grant & Rouss as to who the person was that you were going to send?

A No.

Q Just the description? A That was all.

Q What did you say to your wife's nephew? A I asked him if he would go and see a party for me the following day.

He said he would. I gave him a description of Captain Thomp-

son. I told him to start no conversation with him.--

MR. STANCHFIELD: We make the same objection to this.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

A (continuing) -- and expect nothing from him, to listen to all that he had to say, and I would meet him afterwards.

Q What description did you give of Captain Thompson? When you say "captain Thompson" you mean one of these defendants here -- the former Inspector? A Yes sir.

Q What description did you give as near as you can recall?

A I told him his hair was dark mixed with gray, a ~~stubby~~ stubby mustache, and he was about in the neighborhood of 5 foot, 11.

Q Was there anything more that you said in that conversation? A At that time?

Q Yes. A Not at that time.

Q Did you see Nelson again? A I did.

Q Did you have any conversation with him? A I did.

Q What was the conversation?

MR. STANCHFIELD: Fix the date.

Q When was it? A The 28th.

Q The following day? A Yes sir.

Q What was the conversation?

THE COURT: If this was a conversation as to what counsel said, then I should not take it from this witness. If it

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was an act in furtherance of any conspiracy, I may take it.

XX MR. CLARK: The people will undertake to produce the witness Nelson to state the conversation he had the following day with the man whom he met.

THE COURT: Were any further instructions given by this witness to Nelson in furtherance of the --

MR. CLARK: Not by Nelson, but a message given by Nelson to him which he had received from Thompson -- after Nelson had talked with Thompson. In furtherance of the conspiracy, Thompson gave this Nelson a message to Fox. Fox had given a message to Nelson. Nelson went down and met Thompson. And after he met Thompson, Thompson told him something to tell to Fox in furtherance of the conspiracy.

THE COURT: I will take it.

MR. STANCHFIELD: We object to it as incompetent, irrelevant, immaterial, hearsay and no proper foundation laid for it.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

Q Now, you had this conversation the next day? A Yes sir.

Q What did Nelson tell you? A He told me he had met that party whom I had sent him to meet and that they told him to tell me that they would give me one hundred and twenty five dollars a month while I was in trouble or while I went to prison, that since he took hold of the matter I was bailed

out, as this sick man was trying to run things from his bed and made a bungle out of it, so he says you tell him to call up his lawyer and I will call him up, that I would like to make an appointment with him.

Q That is, Nelson told you that Thompson had told him —

MR. STANCHFIELD: I object to this.

MR. CLARK: I am willing to have the witness repeat it.

THE COURT: The stenographer will repeat the answer of the witness.

(The stenographer repeated the answer of the witness)

Q It was Nelson that told you that this was the message that had been given to him by the man he had seen?

MR. STANCHFIELD: I object to that question, as to the form of it, and as incompetent, irrelevant and immaterial.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

A Yes sir.

Q Did you call up your lawyer's? A I did. And Thompson had not as yet called.

THE COURT: When you say your lawyers, whom do you refer to?

THE WITNESS: Grant & Rouss.

MR. STANCHFIELD: I move to strike out the answer, that Thompson had not as yet called up.

THE COURT: yes; I will strike that out.

Q Did you subsequently call up your lawyers again? A I did.

Q Did you have any conversation with them? A I did.

Q What was the conversation?

MR. STANCHFIELD: I object to that.

Q What day was it? A It was on the 28th.

Q That same day? A Yes sir.

Q What time of day? A About twelve o'clock.

Q Do you remember with whom you spoke? A Mr. Rouse answered the 'phone.

Q And did you have a conversation with him? A I did.

Q What was the conversation?

MR. STANCHFIELD: I object to it as incompetent and no foundation laid.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

A I asked him if Captain Thompson had called them up yet. He told me no. That was all the conversation I had at that time.

Q Then you subsequently called up again? A No.

Q Did you have any conversation subsequently with Thompson? A That evening --

MR. STANCHFIELD: That calls for a yes or no answer.

Q (Question repeated)? A I did.

Q When? A That evening.

Q Where? A Over the telephone first.

Q Where did you telephone? A I was called from telephone

number "Tremont 4823".

Q What was that telephone -- where was it? A On Burnside Avenue near Morris Avenue.

Q Near your home ? A Yes sir.

Q And you were summoned to that telephone? A I was.

Q Did you speak on the telephone? A I did.

Q Did you know the voice of the person to whom you spoke ?
~~Yes~~ A Yes sir.

Q Whose voice was it? A Captain Thompson's.

Q Did you have a conversation with him? A I did.

Q What was the conversation? A He asked me over the 'phone if I could meet him that evening. I told him "Yes". I asked him "Where"? He said "Any place you may name." I says "It is immaterial to me where I meet you". He said "Well, we will make it half way." "What time?" He says "Well what time do you want to come?" I says "Will ten o'clock do?" He says "That will be too late; can't you make it earlier." "Yes" I says. "Make it between half past seven and eight o'clock if necessary." He says "That will do; where will you meet me?" "At 96th Street, at Broadway Subway Station."

Q Is that all? A That was all over the 'phone.

Q Did you subsequently see this defendant Thompson? A I did.

Q When? A In the neighborhood of eight o'clock.

Q Where? A At 96th Street and Broadway.

Q Did you have a conversation with him? A I did.

Q What was the conversation? A He told me that he had talked to my lawyers and that he was willing -- they were willing to help me but as yet he had not talked to any of the other men who had been in the district since he had been in it -- in charge of the district, rather. So he says "I can guarantee you this much, that you will get one hundred and twenty five dollars a month while you are in trouble and while -- in case you should be convicted while you are in prison." I told him that did not satisfy me. Now he says "I think you are unreasonable; we have acted very fair" he says "since I got on the job you got out of the Tombs." He says "That sick man could not manage things, but" he says "I will see the other people tomorrow if possible, I will arrange to meet you tomorrow night."

Q Did you arrange to meet him? A I did.

Q Where? A It was.

Q Did you make another date? A For the same place the following evening.

Q Did you see him there? A I did.

Q The next night? A I did.

Q Did you have a further conversation with him then?

A He told me that as yet he had not seen the other men that he had spoken of.

Q Had he spoken of any particular men? A He said the men

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who had succeeded him in charge of the district, the Sixth Inspection District.

Q And what further conversation did you have that second night? A But he says "I have not seen them, so" he says "I will see you again tomorrow ~~morning~~ night."

Q Did you see him again the next night? A I did.

Q Where? A 95th Street and West End Avenue.

Q Did you have a conversation with him then? A I did.

Q What was that conversation? A He told me he had been talking to these men who had been in charge of the district and that they would not listen to any such sum as I requested.

Q You had not said anything about requesting a sum, had you mentioned any sum to him in those earlier talks? A No.

Q Had he mentioned any sum as one that you had requested? A He had.

Q What sum was that? A Ten thousand dollars.

Q And you say on this occasion -- this was the third time you saw him? A Yes sir.

Q -- that they would not listen to that sum? A No.

Q Well, what was the further conversation?

THE COURT: That is not the way I understood it. You said you would be satisfied with ten thousand dollars?

THE WITNESS: No.

Q Then give us the conversation? A He told me that they

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would not listen to any such sum as ten thousand dollars. That just at the present time it was hard to get any money, but they would take and give me one hundred and twenty five dollars a month while I was in trouble or while I went to prison. I told him that would not do. I says "You can take and quit right where you are, it will satisfy me." He says "We had better meet again." So we met again the following Saturday night.

Q That was the Saturday night before you went to trial?

A Yes sir, the first of February.

Q Where did you meet then? A 95th Street and West End Avenue.

Q The same place as the last meeting? A Yes sir.

Q Did you have a conversation then? A I did.

Q What was the conversation then? A He says "I have in my pocket \$2800., two years salary, which we will give you." I told him I had changed my mind and I was going it alone. He says "What do you mean, are you going to squeal?" I says "Take it any way you like". He says "If you do squeal what can you do; you will cause a lot of newspaper notoriety and that will be about all." And we left -- we separated rather, and I went home.

Q Was that the last conversation you had with him? A It was.

Q The following Monday, the third of February, was your

case called for trial? A It was.

Q Were you in court when the case was called? A I was.

Q What happened? A The jury was impanelled.

Q And later in the day did you appear before the court again? A I did.

Q What occurred then? A I pleaded guilty.

Q To the charge of bribery? A Yes sir.

Q That is, accepting a bribe from George A. Sipp? A I did.

MR. CLARK: That is all.

CROSS EXAMINATION BY MR. STANCHFIELD:

Q Mr. Fox, I understood you to say before the lunch adjournment that you had been doing police service in this so-called 43rd precinct since the year 1900? A About 1900, yes.

Q From 1900 down to June, 1907, were you doing anything thing other than patrol duty? A Nothing other.

Q The other uniformed patrol service in the department?
A Yes sir.

Q Do you recollect with any exactness what date Inspector Thompson as Inspector took charge of the sixth District in which the 43rd precinct is located? A I have no clear recollection as to that time.

Q Then, you have apparently a most excellent memory. Suppose you test it and give me as near as you can when he took

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charge of the inspectorship of that district? A Because the 43rd --

Q I just want the date? A About June 19 -- about that time.

Q June 19, 1907? A June 19, 1907. That is when the 43rd precinct went into the Sixth Inspection District -- about that time.

Q And was it about the same time that captain walsh took charge in that territory -- captain of the 43rd Precinct?

A It was.

Q Was it the same day, as far as your memory now serves you? A It might have been the same day or the day prior. I am not so sure about that date.

Q One or the other, according to your best recollection?

A Yes sir.

Q Did you know walsh at the time? A At what time?

Q June 18, 1907? A I did not.

Q Did you know Thompson at the time? A I did not.

Q To your own knowledge had you ever seen either one of them? A Prior to that?

Q Yes. A Oh yes.

Q Then you knew them by sight? A By sight.

Q And when you say you did not know them you mean you had no personal acquaintance with them? A That is it.

Q How old are you now? A Thirty seven past.

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Q So that in 1907 you were thirty three or thirty four years of age? A Yes sir.

Q Down to that time had ever been corrupt or dishonest in office as a policeman? A What do you mean?

Q Had you ever accepted bribes prior to that date? A To what date?

Q June 19, 1907? A No.

Q In other words, you say now under your oath that up to that time your record had been clean? A Yes sir, as far as the accepting of any bribe was concerned.

Q That is what I am asking about? A Yes sir.

Q When you draw that distinction "so far as accepting a bribe is concerned", have you in mind any other improper source from which you took money? A Any money at all. I never accepted other than my salary.

Q Very well. That is what I am getting at.

Q So that your salary up to that time was all you had?

A Yes sir.

Q And you have been on the police force, I think you said, something like sixteen years? A Sixteen years and four months.

Q When did you become attached to Walsh? A In what way?

Q As his man, his representative man, his confidential man -- whatever you please to term it? A In the early part of 1908.

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Q Not until the early part of 1908? A About that time, yes.

Q You are sure of that? A Yes.

Q So that from June, 1907, to January 1, 1908, a period of about seven months, in that territory you did not collect any graft? A I did not.

Q Do you know this man that you spoke of this morning, that you called "Johnny Summers"? A I do.

Q You told the District Attorney who was taking conducting your examination, that you knew he had been collecting graft in that territory? A Yes sir.

Q Did you see him collect it? A No.

Q Were you ever present when he collected ~~it~~ a dollar of graft? A No.

Q When you told the District Attorney that you knew it, that statement was not true? A I knew it from being told.

Q When you told him that you knew it, that statement was not true? A Not true that I had seen him accept any.

Q I say, you had never seen him collect any graft, had you? A I had not.

Q When you told the District Attorney -- I will repeat my question -- that you knew he had collected it, that statement was not true? A Well, in that respect, no.

Q That is an answer. Now, is it your recollection and are you positive about the proposition that it was Captain

Walsh who first handed you a list of places from which you were to collect graft? A Yes.

Q There is no doubt about that in your mind, is there?

A Not at all.

Q You did not hand him any list? A I could not have.

Q You would not know where to get it? A No.

Q You never had any talk with a man named Wren who handed you a list of places from which you were to collect graft?

A I may have had a talk with Wren. I had several talks with him on several occasions.

Q Did you have a talk with Wren about the places you were to collect graft from? A Prior to my going out?

Q Yes. A No.

Q You are sure you did not? A Yes.

Q Did Wren ever at any time or place hand you a list of places from which graft was to be collected? A Wren never handed me a list.

Q So that the list which you got and upon which you acted and under which you collected, was handed you by your superior, Captain Walsh? A It was.

Q Did he tell you what that list was for and what you were expected to do? A He did.

Q Down to that moment you say you had never accepted any bribe money? A I did not.

Q What did you say to him when he asked you to do it? A I

was surprised.

Q I did not ask you whether you were surprised. I asked you what you said? A I told him I would.

Q Did you make any demur at all? A No.

Q Did you do it because you were ordered to or because you wanted to do it? A Well, I done it I guess because I was ordered.

Q Did not you expect yourself to get a percentage? A He told me I would.

Q Did he tell you how much? A Yes.

Q Did the fact that you were to get a percentage enter into your willingness to do it? A It did.

Q Which controlled -- the orders from your superior or your desire to get graft? A Well, I guess the desire to get the graft.

Q Did you commence taking graft in January, 1908? A No.

Q Did you in February, 1908? A I did not.

Q You tell me early in 1908. Suppose you fix the month?

A It was not earlier than March. In March or April.

Q March or April? A Either one of those two months.

Q 1908. Now, you continued, as I understand you, down to the end of this last year? A Yes sir.

Q Was this place known under various names operated by Sipp, on the list that Walsh gave you? A Yes sir.

Q Was the price that each of these various places were to

pay, fixed on this list? A Yes sir.

Q So that you had a schedule with the places and the amounts they were to pay? A I did.

Q Furnished you by Captain Walsh? A Yes sir.

Q Do you know whether or no that was in his handwriting?

A I do not.

Q Did you know Sipp personally? A Up to that time?

Q Yes. A I did not know him personally. I knew him but I would not say personally.

Q When I say "did you know him" I mean did you know him personally? A No. I knew who he was.

Q Do you recollect or are you able to state the first month when you called upon Sipp? A I am not so sure about that, whether it was March or April.

Q Do you know whether after March or April, 1908 Sipp's place was raided? A I heard it was.

Q You heard that it was? A Yes sir.

Q Did you hear when it was raided? A Did I hear when it was raided?

Q Yes. A No, I did not.

Q How many times did you understand it was raided while you were there? A I think three or four times, that I heard of.

Q Were those raids before April, 1908, or after? A Well, they were during my time -- during the time I was collecting for Captain Walsh.

Q During the time you were collecting for Walsh? A Yes.

Q You have not any doubt but what you knew of the fact of those raids? A I am not sure of them. I said I heard of them. I would not swear that they ever took place.

Q Did not you verify the information that filtered into you that the place had been raided? A No.

Q Did you never have any conversation with Sipp on the subject? A No.

Q When you were paid month in and month out after March or April, 1908, this one hundred dollars a month by Sipp, did you go to him in person and get it? A Yes sir -- not all the times from him.

Q Some of the times from a representative of his? A Yes.

Q But you in person collected either from Sipp or the representative? A Yes sir.

Q In other words, I mean by that inquiry, you never deputized any person else to do it? A No.

Q When this money was paid to you, was there anyone present so far as your knowledge goes, except Sipp or his representative? A During all those times?

Q Yes. A All except once that I know of.

Q Was there an occasion when more than one was present?

A There was.

Q Who was the man? A His son.

Q Howard Sipp? A Yes sir.

Q Do you recollect what month that was? A I believe 29
in April, 1911.

Q April, 1911? A Yes.

Q You were subjected, were you not, to quite an extensive
examination at Police Headquarters? A No.

Q Before Commissioner Dillon, in December, 1912? A No,
was very short.

Q Were not you asked a number of questions? A A few,
not such an awful lot.

Q Are you sure about that? A Yes sir.

Q Did not your examination cover quite a number of pages?
I don't know how many pages it covered; I never seen it
print.

Q But you have an excellent memory; cannot you recall
whether he asked a great many questions? A He did -- he
asked me some questions.

MR. WHITMAN: I object to the question. That is a relative
term.

Q Do you recollect whether or not he asked you in regard
among other things, to the raid upon Sipp's place, or raids?
I don't just remember what questions he asked me that day.

Q Did not he ask you this question: "During the time you
were in the precinct or in the district, do you know whether
Sipp's place had been raided as a disorderly house or anything
of that kind"; and did you answer "No, I don't know of any

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raid having been made there." A I may have answered that.
I am not quite sure what I answered.

Q What is the reason you are not sure what you answered?

A Well, that day I was pretty well excited -- all upset.

Q You were in a condition of excitement so that you don't know what you said? A Possibly.

Q Do you think that anything could excite you so that you could not tell whether you were telling the truth or not?

MR. WHITMAN: Objected to.

THE COURT: Objection sustained.

MR. STANCHFIELD: Exception.

Q What produced the excitement there -- the fact that you had been summoned to Headquarters? A The fact that I had been suspended.

Q Does that destroy your memory as to the examination to which you were subjected? A No.

Q ~~But~~ If you made the answer that I am reading -- A If those answers are in print I must have answered them.

Q Well, the answer was not true? A Any answer that I made to Commissioner Dillon that day was not true.

MR. WHITMAN: I object to the question. Mr. Stanchfield has asked if he made such an answer. That is exactly the answer that he makes here. He says he has no knowledge, he did not know that Sipp's place had been raided or not. It is no contradiction.

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Q It is a fact that your answer to me now is true, that any answer you made to Dillon on that occasion was not true?

A I did not answer any question before Dillon -- I did not have any idea of telling Dillon the truth.

Q In other words, you did not have any idea of telling him the truth; you did have an idea of deliberately telling him untruths? A Certainly.

Q And that is what you did in fact do? A That is what I intended to do.

Q Not only what you intended to do, but what you in fact, Fox, did do? A Yes.

Q Where were your quarters located with reference to Capt. Walsh -- I mean were your headquarters with him in the 43rd precinct? A I was assigned to the 43rd precinct.

Q And your headquarters were in the same building in which he was? That is what I mean by the inquiry? A Yes.

Q They were about how far from Inspector Thompson's headquarters? A Inspector Thompson's headquarters were 125th Street near Amsterdam Avenue, and Captain Walsh was 126th Street between Third and Lexington Avenues.

Q When you were in that district did you see Inspector Thompson from time to time? A I may have seen Inspector Thompson. I am not sure.

Q Can you say, as you sit there, whether during the period that Thompson was there in charge as Inspector, you saw him

from time to time? A I may have seen him different times. I would not say just when I did see him.

Q You could not say positively. Do you mean by that that you ever saw him? A Oh, I have seen him.

Q I mean during the period of time he was there? A Yes sir, I seen him the day I was assigned to the district.

Q Did you see him when you went to collect your pay?

A Sometimes he would be there and sometimes he would not.

Q You were paid once a month? A Yes sir.

Q And you were paid from the building where his office was? A Yes sir, while I was assigned to that inspection district.

Q To that territory; is it your recollection that Inspector Thompson left that territory in september, 1909? A I just don't know when Inspector Thompson left that district.

Q You are not able to say? A No.

Q During the entire period of time that Inspector Thompson was in this district did you ever have a word of conversation with him upon the subject of the payment or collection of any graft in that district? A With Inspector Thompson?

Q Yes. A No.

Q Never was it alluded to between you? A No.

Q Now, you say to this jury that there was a period of time when the graft collections in that strritory amounted to as high as one thousand dollars a month? A Yes.

Q Are you certain about that? A Yes sir.

Q So that you have not any question in your mind but what it was far in excess of four hundred dollars a month? A At different periods, yes sir.

Q If Captain Walsh testifies that four hundred dollars a month was about the maximum, that does not conform to your recollection? A Well, I am not responsible for what Captain Walsh testified to.

Q I am not trying to hold you responsible to it or for him. I say that that amount is not correct, of four hundred dollars a month?

MR. WHITMAN: I object to it.

THE COURT: This relates to a fact and not to a characterization. Objection overruled.

A At times it was four hundred.

Q And at times -- A It was more.

Q Well, as high as a thousand dollars? A Yes sir.

Q Could you state during the period of time you were there, the gross amount that you collected, of graft? A All told?

Q Yes. A I would have to sit down and figure that up.

Q You never took the trouble to figure it up? A No.

Q You kept no books? A No.

Q You were always getting either twenty per cent -- twenty dollars on the hundred or fifteen on the hundred? A Yes sir.

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Q It varied at different times? A Yes sir.

Q When you were giving as a reason to these various men after you were in trouble, that you knew you yourself were destitute of means, even to employing counsel, was that statement true? A It was.

Q Did you use, in addition to your salary right along, this excess that you were getting? A I have.

Q Do you recollect what man it was that followed Thompson there? A Russey.

Q Upon the occasion subsequent to the testimony given by Sipp before the Aldermanic Investigating Committee, when you were at Police Headquarters you spoke of having seen upon one occasion or another different of these defendants there?

A Yes sir.

Q You were summoned there, were you not? A I was.

Q For the purposes of an investigation to the truthfulness of Sipp's relation with that story? A Yes.

Q All of the men that you saw there that you have enumerated, had been at one time or another during your stay in the 43rd Precinct, the Inspectors of the Sixth Inspection District? A Not during my stay in the 43rd Precinct, no.

Q Police District? A The Sixth Inspection District?

Q Yes. A Yes.

Q And isn't it a fact that upon the occasion when you were at Police Headquarters, as you have related, that these

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Q And also were summoned there? A They were.

Q And the occasion of their being there was because of this investigation in which you had been summoned? A Yes.

Q You testified that upon two occasions -- the 18th and the 19th -- that you saw some of these defendants there?

A Yes.

Q And, among others, you named Inspector Thompson? A Yes.

Q You told us that upon each day he said to you "don't worry, everything will be all right"; did not you? A Yes sir.

Q Is that the exact language that he used? A To that effect.

Q Can you give, with your unusual memory, the exact words that he used?

MR. WHITMAN: Objected to.

THE COURT: Objection sustained.

MR. STANCHFIELD: What is sustained?

THE COURT: The objection as to the characterization of the memory of the witness.

MR. STANCHFIELD: I wish I had as good a one.

THE COURT: Better not incorporate it in the question.

Q Are you unable to give any nearer, the language that he used? A That is to the best of my recollection.

Q Did he say anything more than that? A No.

Q Or anything less? A No; to the best of my recollection, he did not.

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Q Did he call you by name? A He did.

Q How did he address you? A "Gene".

Q Had he ever called you "Gene" before in his life? A No.

Q Do you know that he knew your name was Gene? A Oh yes.

Q How did he know it? A Why, from seeing it on the records.

Q Do you know whether he ever looked upon the records to see whether your first name was Eugene or not? A Well, if he did not he was foolish -- not to know my name.

Q Therefore, when he called you "Gene" it was the first time that that degree of intimacy had ever taken place between you anyhow? A It was.

Q It was the first time in your life that he had ever spoken to you addressing you by your first name at any time or place? A It was.

Q What did you say, if anything, to that remark? A I told him "All right".

Q And was that all the conversation that took place between you? A At that time.

Q I am speaking of those two occasions, the 18th and 19th?
A Yes, I say at that time.

Q Were not you curious enough to know whether at that time he meant anything in the way of financial assistance or support, so as to ask him? A I had no idea of any such thing at that time.

Q You never had talked at all with Thompson, you say, on the subject of graft you had been collecting? A Yes.

Q When? A I said I had never spoken to him at any time.

Q And that was true? A That was true.

Q Every dollar that you had ever collected in that district was paid over, at least the share that belonged to him, to Walsh? A Every dollar that I collected in that precinct minus my percentage was turned over to Walsh.

Q That is what I say -- that belonged to him? A Every dollar that I collected was turned over to Walsh -- what he said went to the Inspector as well as his.

MR. STANCHFIELD: I move to strike out that he said went to the inspector and so forth.

THE COURT: Motion granted.

Q Is it your testimony that Walsh told you -- and if the others do not desire it I will limit it to Thompson -- did Walsh ever tell you at any time that Thompson was in that district that he, Walsh, was giving Thompson any of it?

A Yes.

Q Did he limit it to Thompson? A No.

Q I don't mean these other inspectors -- A Only when the inspector was in charge of the district he said whom he was giving the other half to.

Q Did Walsh tell you that he was giving half of this money during the time Thompson was there, after your share was de-

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deducted, to Thompson? A Yes.

Q Did he tell you that upon more than one occasion? A yes, he did.

Q With reference -- I am speaking now, as to Thompson?

A I am answering you as to Thompson.

Q How many times would you say he told you that? A I could not keep track -- maybe five, six or seven or a dozen times possibly.

Q How did the subject come up? A He just simply told me "One half goes across town; you don't get any percentage out of that; I will give you twenty per cent out of what I get."

Q Is that the way he put it -- "one half goes across town"? A Without anything being deducted from it. That is the way he told me.

Q One half goes across town. Is that what you mean when you say that he told you that one half of it went to Thompson? A Yes.

Q When you say that he told you he gave one half to Thompson, is that what you mean -- that he told it in that way? A Yes.

Q Then my original inquiry was right, was it not, that he never told you in words that he ever gave anything to Thompson? A Oh, he said he did give it to Thompson.

Q Did he ~~make~~ couple that up with the expression "one

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half goes across town." A "Across town to Thompson."

Q A few moments ago, if his answer was "goes across town to Thompson", why did not you say so? A I did.

Q Did you tell me in the first answer you made, that it went across town to Thompson? A I did tell you that he had told me that he had paid half to Thompson, and I told you that he told me that he sent half across town.

Q Now, you say what he said was that he sent half across town to Thompson? A To Thompson.

Q And you talked to him, you say, about that upon half a dozen different occasions? A Yes, more than that.

Q I say with Walsh -- half a dozen different times? A Yes.

Q So that when you claim to have this conversation with Thompson on the 18th and 19th at Police Headquarters, in which he said to you, as you say now, "Gene, you need not worry, everything will be all right", you remember at that time that Walsh had told you that Thompson had a share of this graft, of course? A Certainly.

Q You did not say anything to Thompson about it? A No.

Q In any of these conversations, four in number that you testified to, you had with Thompson in the latter part of January of the current year, in any of them did you make any allusion in your talk with Thompson to the fact that Walsh had told you that he had had some of this graft? A No.

Q Never mentioned it? A No.

Q Although all the while you had in mind that Walsh had so informed you? A Yes.

BY MR. STANCHFIELD:

Q Did Walsh say to you that he gave half of the entire collection of graft away? A I don't get your question please. Let me get it again.

Q Did Walsh say to you that he had to send half of the entire collection of graft across town, or away? A Yes, with the exception of three or four places.

Q Now did he say to you that you were to get twenty per cent at one time and fifteen per cent. at another of the entire collection, or of the half that went to Walsh?

A He told me when I first went with him that my percentage would be twenty per cent of what he got for his own personal use.

Q That is of his half? A Of his half.

Q And that obtained all the way through, down until December of last year, other than as it varied to fifteen, is not that right? A No.

Q Well, you say no. What change was there? A When I got fifteen, I got fifteen on the whole amount that I collected.

Q And not fifteen of his half? A No.

Q So that as a matter of finance, you got larger compensation personally on the basis of fifteen per cent. of the whole, than you did on twenty per cent. of his half? A Yes.

Q Were you ever present at any time when Walsh delivered

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to Thompson any of this graft money? A No.

Q Never in your life, were you? A No.

Q On what day was it, Mr. Fox, when you were at the office of Grant & Reuss and you had this conversation with reference to sending Al. Nelson, as you called him, as your representative to see Mr. Thompson? A On what day?

Q Yes. A The 27th of January.

Q That arrangement was made at the office of Grant & Reuss? A What arrangement?

Q With reference to sending Al Nelson to see Mr. Thompson? A It was made and sent back over the telephone.

Q When did you see Nelson that day? A I seen him that evening.

Q He was, as I understand, a nephew, from your testimony, of your wife? A Yes.

Q Did he live at your house? A He did not.

Q Where did he reside? A Hughes Avenue.

Q What was his occupation? A He is a clerk.

Q Clerk for what? A Western Union Telegraph.

Q And about how old was he? A About 27.

Q Did you send for him to come to your house? A No.

Q Did you go to his house? A No.

Q Where did you meet him? A He came to my house.

Q Did he come there by accident? A He comes there quite

often.

Q Did he come on this occasion by accident? A Yes.

Q Now you had a talk with him, didn't you? A Yes.

Q With reference to seeing Thompson? A Yes.

Q What did you tell him? A I told him to go and meet-- after describing Thompson to him, to go and meet him and start no conversation with him, accept nothing from him; just listen to what he has got to say.

Q In other words your instructions were to say nothing, to listen to what he had to say and then come back to you?

A I would meet him afterwards.

Q Well, I say those were your instructions? A Yes, sir.

Q Now at that time you had been arrested? A I had been out on bail.

Q I say at that time you had been arrested and been arraigned on the indictment, and was out on bail? A Yes, sir.

Q To make it more clear and intelligent, was Mr. Nelson aware of that fact? A That I was on bail?

Q Yes. A Oh, yes.

Q Did he know that you had been indicted for bribery?

A Yes.

Q Did you say anything to him as to the errand upon which you were to see Thompson at all? A I don't think I did.

Q Are you quite sure of that? A I am not quite sure, but I don't think I did.

Q You gave him no instructions at all, as your representative, as to what he was to say in your behalf to Thompson?

A Exactly.

Q Did he come back the same night? A What same night?

Q Did he come back to see you the same evening?

A After he had seen Thompson?

Q Yes. A No, I had seen him at his office.

Q Now what day, according to your recollection was it that Nelson was to see Thompson? A Tuesday.

Q Tuesday? A Yes, sir.

Q What time of day? A Eleven o'clock.

Q In the evening? A In the morning.

Q Where? A At 109th Street and Broadway.

Q Did any one go with Nelson down there, as far as you know? A He told me there wasn't.

Q Did you give him any instructions as to whether he was to take any one with him? A No.

Q Was that subject talked over at all between you?

A About taking any one with him?

Q Yes. A No.

Q Now when he came back, you have testified here as to what he said Thompson said to him, have you not? A I believe I have.

Q And had he ever seen Thompson, so far as you know, in his life? A No.

Q In other words, your recollection is that you sent this nephew of your wife, with instructions to see an Inspector of Police; that he was simply to recognize him; say nothing; hear what he had to say, although he was a perfect stranger and come back to you with the result of his interview, is that right? A That's right.

Q Now when with reference to that occurrence did you see Thompson? A Did I see Thompson?

Q Yes. A I seen him that night.

Q After Nelson had reported back to you? A I had seen Nelson that morning.

Q You saw Nelson that morning? A Yes.

Q You say Thompson the night of the same day?

A Yes.

MR. WHITMAN: The same day as what?

Q Of the morning that Nelson had been to see him? A Yes.

MR. WHITMAN: The same day that Nelson saw Thompson?

MR. STANCHFIELD: Pardon me, if there is any error.

THE WITNESS: Yes, I seen him the same day that Nelson had seen him in the morning.

Q Had you seen Nelson in the interim? A Yes.

Q And had talked with him? A Yes.

Q Now when you met Thompson, did you tell Thompson the report that Nelson had brought back to you as to what had

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been said? A No.

Q At no time then during your talk with Thompson, did you ever tell Thompson that Nelson had reported to you what you say here he had said? A No.

Q Where was this first interview that you had with Thompson? A 96th Street and Broadway.

Q Did you take any one with you? A I did not.

Q You are sure about that? A Positive.

Q Now you went to see Thompson, did you not, for the purpose of getting money from him? A Yes.

Q Were you predicating your desire to get money from him, upon what Walsh had told you that he had paid Thompson?

A Was I what?

Q Were you predigating your design to get money from him, upon what Walsh had told you that he had paid Thompson, graft money? A I don't catch the meaning of your first word there.

Q Did you go to see Thompson for money, because of the fact that Walsh had told you he had paid Thompson graft money? A Did I go to see Thompson because Walsh said he had paid him graft money?

Q And asked money from him? A Not because Walsh said he had paid Thompson graft money, no.

Q Not because of that? A No, no.

Q Thompson didn't owe you anything? A No.

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Q You were after him to get money? A I wasn't after Thompson. Thompson sent for me.

Q You went to see him then to get money? A At his request.

Q You went to see him then at his request, to get money?

A Yes.

Q To get money from him? A Not from him alone.

Q Well, he was the man with whom you were dealing?

A Yes.

Q Now you had four interviews with Thompson? A Yes.

Q And your relation of it is that he offered you \$125. a month, and you turned it down? A Yes.

Q You wanted \$10,000. in money? A That was my--the way I felt about it, yes.

Q Well, if he had paid you the \$10,000. in money, were you willing then to have stood trial and been sent away, to use your parlance? A At that time I was.

Q At that time you were? A At that time, yes.

Q You had not then seen the District Attorney? A No.

Q Now you did not succeed in getting from Thompson any promise to furnish this sum of money, when you told him you would go it alone? A Yes.

Q When you said that you would go it alone, you meant by that you were going to turn State's evidence, didn't you?

A That was my feeling, yes.

Q If he had paid you the \$10,000, you would not have done it? A That night?

Q Yes. A Yes, I would have done it if he had paid me \$100,000. that night.

Q You what? A I would have done it, because my mind was made up.

Q You had determined in other words upon your plan?

A Yes.

Q You have spoken here in answer to inquiries from Mr. Clark as to four different interviews you had with Mr. Thompson. When was the first one? A The 28th.

Q 28th of January? A Yes.

Q 1915? A Yes.

Q Where was it? A 96th Street and Broadway.

Q What hour in the day? A Around eight o'clock in the evening. May be a little before, or possibly a little after. About eight o'clock in the evening.

Q In that period around eight o'clock? A Well, I say possibly a little before and possibly a little after.

Q Possibly a little before and possibly a little after, in your own language? A Yes.

Q How when did you see him next?~~xxxxxx~~ ^{R.} The following ~~the~~ day, the 29th.

Q What day of the week was that? A Wednesday.

Q Where did you see him that night? A Same place.

Q And at what hour? A About the same hour.

Q About the same hour. Where did you see him on--what day did you see him upon the third occasion? A Thursday I seen him at 95th Street and West End Avenue.

Q That was Thursday? A Yes.

Q What day of the month was that? A That was the 30th.

Q And what hour in the day? A Around six o'clock.

Q Around six o'clock in the evening? A Yes.

Q In the evening? A Yes.

Q When did you see him on the fourth occasion?

A Saturday, the 1st of February.

Q At what hour? Where did you see him on the 1st of February? A 95th Street, west of West End Avenue.

Q At what hour of the day on Saturday the 1st?

A In the neighborhood of eight o'clock.

Q Eight o'clock in the evening? A Yes, may be a little before or little after.

Q Was it close to eight? A I am not so sure just exactly how close it was, but it was around eight o'clock.

Q Around eight o'clock, Saturday evening, February 1st?

A Yes.

Q That is the last time you saw him? A Yes.

Q Your are perfectly certain that you saw him there at

that place that night? A Yes.

Q No doubt about that in your mind? A No.

Q Just as certain of that as you are of the other three occasions?

MR. WHITMAN: I object to that, if your Honor please.

THE COURT: No, I allow that.

Q Just as certain of that fact as you are of the other three occasions? A Yes.

Q You were a witness before the Grand Jury against Thompson? A Yes.

Q And you fixed before the Grand Jury that you had an interview with him on February 1st, did you not?

A Yes.

Q At this same place at practically the same hour?

A Yes.

Q What representative of the District Attorney's office did you see at the time you made your plea of guilty?

MR. WHITMAN: I object if your Honor please. In the first place he made his plea of guilty in the Supreme Court.

MR. STANCHFIELD: Suppose we let the witness testify.

MR. WHITMAN: I object to the question.

THE COURT: If he saw any representative of the District Attorney's office, fix the person.

MR. STANCHFIELD: The question presupposes that.

Q Did you see at or about the time when the subject

of your rendering a plea of guilty was under advisement, any person from the District Attorney's office?

MR. WHITMAN: I object to the form of the question. When the subject of his entering a plea of guilty was under advisement, a jury was called in the court room and court adjourned.

THE COURT: He may say so. I will allow it.

MR. WHITMAN: I do not know how he can answer the question.

THE COURT: If he does not understand it, he can say so.

Q Is the question plain, Fox? A I would like you to repeat it again.

Q "Did you see at or about the time when the subject of your entering a plea of guilty was under advisement, any person from the District Attorney's Office?" A I seen Mr. Wosh in the court room here.

Q Did you have any conversation with him? A No, I did not.

Q Did you, between the time when your trial was started and the time when you entered your plea, have any conversation with any one connected with the District Attorney's office? A I did not.

Q Who represented you at that time? A Mr. Grant.

Q Did Mr. Grant? A I am not sure whether he did or not.

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Q Did he come back or report to you at any time, as to whether or not he had had any conference?

MR. WHITMAN: I object, if your Honor please.

MR. STANCHFIELD: Let me finish the question.

Q (Continuing)--with Mr. Whitman or any of his assistants?

MR. WHITMAN: I object.

THE COURT: I have been taking the conversations with Grant all the morning.

MR. WHITMAN: I object.

THE COURT: I allow it.

A He came back and told me that he seen Judge Whitman and for me to go into the court room and if I was going to plead guilty, plead.

Q Did he tell you what Judge Whitman had said? A No.

Q Now did you have any further talk with Mr. Grant upon the subject of entering a plea of guilty? A No.

Q Before the time when Grant saw Mr. Whitman, did you have any talk with him? A No.

Q Upon the subject of your pleading guilty? A Did I have any talk with Mr. Grant?

Q Yes. A I told Mr. Grant I was going to plead guilty.

Q Did he suggest that of his own motive he would go to see Mr. Whitman, or did you ask him to go and see him? A I

am not so sure about that, whether he did or not.

Q Which way do you recall it to be? A I think that I asked him.

Q To go and see Mr. Whitman? A Yes, if I remember rightly.

Q What did you ask him to say to Mr. Whitman? A I told him to go and see Judge Whitman and tell Judge Whitman I was going to plead guilty.

Q Is that all? A Yes.

Q Did you not ask him to intercede with Judge Whitman in any way, with reference to what the sentence should be?

A No.

Q That you did not discuss? A No.

Q Have you ever discussed it since? A No.

Q Are you now on bail or in the Tombs? A I am on bail.

Q Have you been sentenced for your plea of guilty?

A I have not.

Q Has any time been fixed for you to be plead guilty?

A I don't think there has.

Q I mean for you to be sentenced? I beg your pardon?

A I don't think there has.

Q Has been any conversation between you and the District Attorney upon the subject of what, if any punishment he will recommend in your case? A No.

Q Have you talked with any representative of the District

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Attorney's office, in regard to your evidence upon this trial? A Oh, I have talked to several of them.

Q Frequently, have you not? A Yes, sir.

Q With different members of the District Attorney's office? A Yes.

Q As you sit there giving this evidence in this case, do you expect immunity when you are sentenced? A Do I expect immunity?

Q Yes. A I expect nothing.

Q Do you entertain any hope of immunity? A Oh, I hope I will get off light.

Q Do you expect to get off light? A I don't expect anything.

Q Do you hope that your sentence will be lightened?
A Naturally I would hope so.

Q In accordance with the evidence that you give here?
A I hope it will have an effect on the sentence.

Q You are familiar in your experience upon the police force, with people turning State's evidence, are you not?
A No, I am not familiar with people turning State's evidence.

Q And you have not read about it in the newspapers? A I have read several times about it.

Q Have you not seen very often while you have been

upon the police force, known of people turning State's evidence? A. Never known of any one, to know them. I have read of it. I have read of lots of people turning State's evidence.

Q. Is it not your expectation as you sit there now that predicated or based upon the story you give here, your sentence will be suspended? A. Oh, I hope so.

Q. You hope so? A. I hope it would, yes.

MR. STANFIELD: That is all.

CROSS EXAMINATION BY MR. SMYTH:

Q. How many times did you see anybody from the District Attorney's office, from the time your trial started until you pleaded guilty? A. Oh, I have seen numerous members.

THE COURT: No, from the time your trial started until you pleaded guilty?

THE WITNESS: Oh, from the time of my trial until I pleaded guilty I hadn't seen only Mr. Moss. Mr. Moss I believe it was in the court room.

Q. Was Mr. Rouss with Mr. Grant in the defense of your suit? A. Yes.

Q. Was he in court? A. He was in court.

Q. How many times do you know that either Mr. Rouss or Mr. Grant saw anybody from the District Attorney's office? A. I don't know.

Q Well, do you mean by that that it was so many times that you cannot specify? A No, I really don't know how many times or if they ever did see them. I wouldn't swear that they ever did see them.

Q How long a time was it from the time the trial started, until you pleaded guilty? How much time elapsed? A Well, the time the jury was impaneled and I pleaded guilty in the afternoon.

Q In the afternoon? A Yes.

Q Now the trial was stopped for some little time, was it not, before you pleaded guilty? A No, it was just merely adjourned until two o'clock in the afternoon, and resumed.

Q What time was it that the trial adjourned at?

A I think it was near twelve o'clock.

Q The usual hour is one? A I think it was after twelve, if I ain't mistaken.

Q It was sometime before the usual hour, of adjournment was it not? A I am not so sure about what time it was.

Q You know that an earlier recess was taken on that day in your case? A I do not know that an early recess was taken. I do not know the time.

Q Haven't you attended court during your experience as a patrol officer? A Yes.

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Q A great many times? A Yes.

Q Don't you know that the usual hour for adjourning court is one o'clock in the day time? A Well, courts adjourn at one o'clock I should say, yes.

Q What I want to get from you is, or what you remember of the subject of whether there was an early recess taken on this day? A Not very early, no.

Q I didn't say very early. Was there an early recess taken? A Possibly a little before one o'clock.

Q Now there was some reason for taking an early recess, was there not?

MR. WHITMAN: I object, if your Honor please.

THE COURT: Yes, I sustain the objection. He did not take the recess.

MR. SMYTH: Exception.

Q Did Mr. Grant consult with the District Attorney and he with the Court, before the recess was taken? A I don't know.

MR. WHITMAN: If you know.

MR. SMYTH: If Mr. Whitman is going to testify--

MR. WHITMAN: I asked him if he knew.

MR. SMYTH: Oh, I thought you said no.

Q Well, after recess was taken, what did you do in the meantime? A What did I do?

Q Yes. A I went out and had something to eat.

Q Did you spend all of your time between the time recess was taken until court reconvened, in getting something to eat? A Well, no. I took a walk I guess.

Q Took a walk alone? A No.

Q Now you knew that you were going to plead guilty, did you not, or you had that idea in mind when recess was taken?

A Yes.

Q And you knew that the result of that might be sentenced to fifteen years in prison? A I didn't know what the sentence was.

Q You don't know what the maximum sentence might in the case of bribery? A I understood the maximum sentence in bribery was ten years.

Q Very well then. You knew at that time that you were subjecting yourself to a penalty of being imprisoned for ten years by pleading guilty? A I did not expect to get ten years if I pleaded guilty.

Q Why did you not? A Because I expected to throw myself on the mercy of the court.

Q What means had you taken for throwing yourself on the mercy of the court to assure you you were going to receive the mercy of the court?

MR. WHITMAN: I object to that.

THE COURT: Objection sustained.

MR. SMYTH: Exception.

Q You say that you took a walk during recess? A Yes.

Q Were not you under arrest, as this was a charge of felony? A I was on bail.

Q But the trial had begun. You mean to say that you were alone allowed to go at large after the trial had begun in a felony case?

MR. WHITMAN: Now, if your Honor please, I object.

THE COURT: I will let him state the fact. It was entirely in the discretion of the Court what he allowed him to do.

MR. WHITMAN: Certainly he was out on bail.

A The trial had not begun, because the jury--

Q The jury had been impaneled? A Yes, but they were told to report back too.

Q Was anything said by Mr. Rouss or Mr. Grant to you about seeing you during recess? A No.

Q Do you tell these gentlemen that you did not see your lawyers from the time recess was taken until Court reconvened, notwithstanding the fact that you had in mind that you were going to plead guilty and subject yourself to ten years imprisonment, possibly? A I did not see my lawyers.

Q Did you understand the question? A I did not see my lawyers.

Q Did you make any appointment to see them? A At two o'clock.

Q Did you know what they were to do in the meantime?

A They were to come in court with me, as much as I knew.

Q Was anything said by either one of them that they in the meantime would see the District Attorney and the Court and see what could be done for you?

MR. WHITMAN: I object.

THE COURT: I will allow him to say whether his lawyers made such a statement to him or not.

A My lawyers did not.

Q So that so far as you were concerned, you were absolutely in the dark what would happen to you at two o'clock when court took a recess, and you took no means to protect yourself in any way. Is that right? A Yes, sir, that is proper.

Q Well, when you came back to court, was it Mr. Grant who went in to see Judge Whitman? A I don't know if Mr. Grant went in to see Judge Whitman or not. I didn't see him go into Judge Whitman's office.

Q Did the trial go on at two o'clock, or was there an interim while the jury were sitting there? A The court was called to order and I pleaded guilty.

Q Did you plead guilty immediately? A Yes.

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Q Immediately on the court's convening? A Yes.

Q Without saying a word to Mr. Grant? A Oh, I had told Mr. Grant I was going to plead guilty.

Q When was it that Mr. Grant had said that he would see Judge Whitman? A In the morning.

Q What time in the morning? A Around before ten o'clock.

Q Ten o'clock? A Yes, he said he would see him.

Q Did he say for what purpose he had seen him? A No.

Q He said he would see him at ten o'clock? A Yes.

Q When was it he did see him? A I don't know.

Q When was it he reported to you that he had seen him?

A After the jury had been impaneled.

Q What time in the morning was that? A That was after. That was between 12 and 1 sometime.

Q Was that at the time that recess was taken? A Yes.

Q Did he come from some other room or at the time he came to you and said that he had seen Judge Whitman? A I don't know where he was.

Q He was not at the counsel table, was he?

A This was prior to the trial at all.

Q When was it? I want to find out? A I told you it was before ten o'clock. He told me he would go and see him.

Q That is when you say he said he was going to see him?

A Yes.

Q I want to find out when he said that he had seen him?

A He told me he had seen Judge Whitman and told him I was going to plead guilty.

Q When was that? A I told you that was after recess had been taken that he told me that.

Q It was after the court had adjourned before the noon recess? A Yes.

Q Well then, between ten o'clock in the morning and the time that court adjourned for recess, Mr. Grant had seen the District Attorney?

MR. WHITMAN: I object, if your Honor please.

THE COURT: Objection sustained.

Q I said that was the only time there was for him to see the District Attorney, was it not?

MR. WHITMAN: I object.

THE COURT: Objection sustained.

MR. SMYTH: Exception.

Q Did you see Mr. Grant leave the room during the morning, from the time court convened in your case, until recess was taken? A No.

Q When was it that you made any suggestion or request to either Mr. Grant or Mr. Rouss, that you wanted to throw yourself on the mercy of the court? A That morning.

Q At ten o'clock? A Prior to that.

Q Well, how long prior? A Nine--quarter to ten.

Q Where were you when you did so? A The first time in Mr. Rouss' office.

Q In Mr. Rouss' office? A Yes.

Q Did either one of your lawyers say that they would go and see Judge Whitman then before court? A Mr. Grant said he would go and see Judge Whitman.

Q Before court opened? A Yes.

Q Did you say that before you pleaded guilty, that Mr. Grant told you nothing more than that he had seen Judge Whitman? A Proper.

Q Well, you inferred from that that he had made terms with the District Attorney, did you not? A I inferred nothing.

Q Did you hope that he had? A Oh, I always hoped.

Q Did you ask him if he had? A I did not.

Q Did you assume that he had? A I never assumed anything.

Q Did you trust that he had? A I did trust he had.

Q Unless it was plain in your mind that you were going to receive the mercy of the court, you would not have plead guilty, could you? A That had no bearing on my pleading anyhow.

Q Then you wish these gentlemen to understand that it would have had no bearing on your pleading guilty, with a possible penalty of ten years imprisonment, whether any

arrangement had been made for the mercy of the court to be bestowed on you, is that it? A I hoped that the mercy of the court would be bestowed on me for pleading guilty.

Q If you had expected that you were going to get a prison term, would you still have pleaded guilty?

MR. WHITMAN: I object to the form of the question.

THE COURT: I will allow it.

A Yes.

Q You would? A Yes.

Q If you knew definitely that you were going to get the maximum punishment, would you still have pleaded guilty?

MR. WHITMAN: I object.

THE COURT: Objection sustained.

MR. SMYTH: Exception.

Q Now the fact is that your case has never been moved for sentence since that day to this, has it? A No.

Q Immediately upon your pleading guilty, you went to the District Attorney's office, didn't you? A Pardon me again.

Q I say immediately upon your pleading guilty, you went to the District Attorney's office, didn't you? A I went to the District Attorney's office.

Q You made a statement there, didn't you? A I did.

Q How many statements have you made altogether to the

District Attorney? A I have made one statement to the District Attorney.

Q One statement in writing? A I have made a statement to the District Attorney in writing.

Q Was it made all at one interview? A No.

Q How many interviews did it take before your statement was reduced to writing? A How many interviews?

Q Yes. A Oh, not very many.

Q How many? A Two or three.

Q Would you say it was not more than three? A I don't think so.

Q On each of these occasions you went over what you had to say? A Yes.

Q Did you say more on one occasion than on another? A I don't know.

Q After your first interview, did the District Attorney tell you you would have to come back and make a further statement? A I didn't complete my statement.

Q How long did it take you to make your first statement? A I really don't remember how long it took.

Q Did it take the greater part of the day? A I don't remember.

Q You haven't any recollection on that? A Just how long it took, no.

Q Was it the next day you made the addition to your

statement? A It might have been.

Q Then on a subsequent day you made a still further addition to your statement, is that right? A Possibly.

Q Was what you said on each day written out on each day?

A I believe it was.

Q And finally on the last day, was there a complete statement written out? A I believe there was.

Q Now then these statements were entirely the same that were given on these various dates, were they?

MR. WHITMAN: I object.

THE COURT: Objection sustained.

MR. SMYTH: Exception.

Your Honor will not permit me to find out?

THE COURT: He has already told us he did not finish his whole statement on the first day and came back and made another statement on the second day.

MR. SMYTH: I know that, but that does not meet my point that the question brings up.

THE COURT: You asked him whether they were the same statement?

MR. WHITMAN: I withdraw the objection if he wants to ask. Go ahead.

A No, of course not.

Q They differed in substantial detail, did they not?

A Well, they wouldn't be the same thing every day.

Q That is to say you handed out to the District Attorney a different story every day?

MR. WHITMAN: I object, if your Honor please.

THE COURT: Yes, sustained.

MR. SMYTH: Exception.

Q They differed in many details, did they not?

MR. WHITMAN: I object.

THE COURT: I will allow him to say whether they differed.

A In what respect do you mean they differed?

Q You know. A I don't know.

Q You don't know in what respect they differed? A No. I want to find out just your question. You say they differed.

Q You have told us they differed? A In what respect do you mean?

Q What respect do you mean? A I am not answering you that.

Q You haven't answered that question? A No, not as yet to you.

Q What was said to you with regard to immunity during any of these interviews? A Nothing.

Q What was said with respect to moving you for sentence at any of these interviews? A Nothing.

Q Why was it that you were calling on the District

Attorney so often and giving him statements on each visit?

A Gave him my full statement, telling the truth.

Q Where were you doing it? A Because I had pleaded guilty and I told him I would tell him all I knew.

Q Did you have any object in regard to your own safety in doing that? A In what respect?

Q In the respects of your safety of person, not being incarcerated in State's prison? A I had no idea of such a thing.

Q You had no idea of what? A Getting immunity.

Q You had no idea of not being sentenced by giving the District Attorney these statements? A I had no idea of not being sentenced, did you say?

Q I am asking you if that is what you mean? A I had no idea of getting any immunity.

Q Did you have any idea of escaping a prison term?

A I hoped I would escape some of it.

Q Did you have any idea of escaping entirely a prison term?

MR. WHITMAN: I submit this question has been asked and answered a dozen times.

THE COURT: Yes, I think we have been over it Mr. Sayth. I will sustain the objection as already covered by cross-examination.

MR. SMYTH: Exception.

Q What was it you told the District Attorney you would tell him all you knew? A Oh, I told him several times.

Q When was the first time? A I don't just remember the first time.

Q When you told him on subsequent occasions, was it because the District Attorney was complaining you had not told him all you knew? A The District Attorney never complained to me.

Q Did he ever make that statement to you? A No.

Q In answer to Mr. Stanchfield in the beginning of your cross-examination, you said if I got you rightly that you had done nothing reprehensible with regard to collecting money, other than this graft. What did you have in mind--or corrupt instead of reprehensible--what did you have in mind that you had done of a wrong nature?

MR. WHITMAN: I object if your Honor please.

THE COURT: I sustain the objection.

MR. SMYTH: Exception.

Q Did you have in mind anything else that you had done of a corrupt nature, besides excepting graft? A No.

Q What did you mean by making the answer in the form you did?

MR. WHITMAN: I object. The answer speaks for itself.

THE COURT: Let him say.

A I just simply meant that I answered his question.

Q And you intended, did you not to exclude corruption about everything else, except graft money? A I did not. I said I never collected any money in my life before.

Q I think you said, Mr. Fox, that you borrowed the \$250. from your brother--the \$250. that was first given to Mr. Reuss. What was your brother's name? A James.

Q What business is he in? A He is a plasterer by trade, journeyman plasterer.

Q A plasterer employing men or work for them? A A journeyman plasterer.

Q And in what form did he lend you this money? A I don't remember just what form it was that he loaned me.

Q Was it in a check or was it in cash? A It was in cash.

Q Did it represent part of his savings, or do you know where he got the money?

MR. WHITMAN: I object, if your Honor please.

A Of my own knowledge I do not.

Q Well, from what he told you?

MR. WHITMAN: I object to what his brother told him where he got the money he loaned him.

THE COURT: I will allow it.

A My brother told me he drew it from the bank.

Q He draw it from the bank? A Yes.

Q What bank was that? A I don't know.

Q Don't you know where your brother kept an account?

A No.

Q Did he say anything with regard to how large an account he had?

MR. WHITMAN: I object, how large an account his brother, who was a journeyman plasterer, had in a bank, if he does not know what bank it is.

THE COURT: I allow it if he knows.

A I don't remember him saying it.

Q Now the money that you collected for yourself, this fifteen per cent, and twenty per cent., what did you do with that money? A The 15 or 20 per cent?

Q Yes. A Why, I spent it and saved it.

Q What? A Spent a lot of it and saved some.

Q You saved some? A Yes.

Q Now the part that you saved, you deposited in your brother's bank, did you not? A In whose bank?

Q Or got him to deposit for you? A No.

Q Did your brother live with you? A No.

MR. WHITMAN: I object, if your Honor please.

THE COURT: No, I will allow it.

Q Were you in the habit or custom of saving part of this graft money, every month? A Sometimes.

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Q And when you saved it, where did you put it? A In the bank.

Q Where was your bank? A I had no bank. I put it in the bank at 125th Street, Between Lexington and Park Avenue.

Q In whose name? A In my wife's name.

Q How long had you been putting your savings in your wife's name? A A couple of years.

Q What did your savings amount to? A About \$2,500.

Q In the bank, you mean? A Yes, in the bank.

Q About \$2,500. a year? A In the bank? What do you mean, all told in the bank?

Q All told? A About \$2,500.

Q That money was drawing interest, was it? A Yes.

Q And you did not touch it? A Oh, yes.

Q To what extent did you touch it? A I drew it nearly all out again.

Q When did you draw it nearly all out again? A Over a year ago.

Q What did you do with the last year's savings of graft? A Spent it.

Q Now you mean to say you didn't save any during the last year? A No, not to the best of my recollection I haven't.

Q What other account did you have besides the one that you kept in your wife's name? A No other.

Q Where was your brother at the time that you asked him for this loan of \$250.? A In the court room down stairs, across the hall from the Magistrates Court.

Q Judge Barlow's court? A Yes.

Q How did you come to ask him for a loan of \$250. in the court room? A Because Reuss asked me to get two or three hundred dollars to give so that Gipp would get away down South.

Q You went to your brother? A Yes.

Q You told him what you wanted it for? A No.

Q That is a pretty large sum for a Journeyman plasterer to loan you. Did you say anything to him what you wanted it for?

MR. WHITMAN: I object.

THE COURT: If it is objected to, I will sustain the objection.

MR. SMYTH: I withdraw the question.

Q Did you say anything to him? A Yes.

Q What did you tell him? A I told him it was for counsel fees.

Q Did you say anything about repaying? A Yes.

Q What did you tell him? A I told him I would pay

him back again.

Q Did you tell him how you would get the money to repay him? A No.

Q Where were you when he gave you the money? A In Rouss' office.

Q Who was present at that time? A When he gave me the money?

Q Yes. A Nobody when he gave me the money.

Q How long after the incident in Judge Barlow's court was it, that you met him in Mr. Rouss' office? A Oh, about --after court adjourned. I should judge in the neighborhood of an hour may be.

Q Did you tell your brother that the \$250. was a counsel fee for the hearing before Judge Barlow? A I told my brother that it was a counsel fee.

Q For your counsel fee? A Yes.

Q Well, at that time all the proceedings was was a police court proceeding? A True.

Q Did you tell him it had relation to Judge Barlow's proceeding? A I told him it was for my counsel fee.

Q Did he say anything with regard to that being a pretty big fee for a police court proceeding? A No.

Q Is not this the same brother that gave you \$950. in a toilet, in secret?

MR. WHITMAN: I object, if your Honor please. No such testimony.

THE COURT: Sustained. That is not the testimony.

Q Is not this the same brother whom you deputed to receive the money from Hartigan? A Yes.

Q And this is the same brother then who received that money from Hartigan in secret, in a toilet? A Yes.

Q Then he knew what the \$950. was for?

MR. WHITMAN: I object if your Honor please.

THE COURT: Objection sustained.

MR. SMYTH: Exception.

Q Did you tell that brother that the \$950. that he had to go into a toilet in order to receive it, was a counsel fee? A Yes.

Q Well, if it was a counsel fee and your brother ought to understand it was a counsel fee, why the secrecy?

MR. WHITMAN: I object, if your Honor please.

THE COURT: He does not claim it was a counsel fee. He claims he told his brother it was a counsel fee.

Q When was it you told your brother it was a counsel fee? A At that time I told him that.

Q Before he got it from Johnny Hartigan or after?

A Before that.

Q What was it you said to your brother? A I just told him to take that \$950., but don't take it in the building.

Q Didn't You explain yourself why he should not take it in the building? A I told him I didn't want to accept any money in this building. I didn't want him to accept any.

Q Did you say anything about why that would be wrong? A I told him I was suspicious.

Q You were suspicious? A Yes.

Q Did he say anything with regard to expressing surprise, that there should be any secrecy about receiving a counsel fee, if that was all it was? A No, he said nothing.

Q So that you told him to be careful not to receive that money from Johnny Hartigan in the building, and sent him out of the building to get it? A Yes.

Q So that nobody could see the money pass. That was your object? A My object was so I would get it in that building

Q So nobody would see you get it? A So nobody would see me get it.

Q You told your brother that, didn't you? A No.

Q What did you tell him about your getting it? A Just told him to take that money and meet me down in Rouss' office.

Q Did you tell him you did not want to receive any money in this building? A Yes.

Q It was at that time he went out of the building to get

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Q Well, your brother did meet you down at Reuss' office, didn't he? A Yes.

Q And who was there? A Mr. Reuss.

Q He was there at the time that your brother turned over this money? A I don't know whether he was or not. I wouldn't be sure.

Q You and your brother had talked over your troubles, had you not? A Naturally we would.

Q You had told your brother, had you not, about Sipp having gone before the Aldermanic Committee, testifying about giving money to you? A He read that in the paper.

Q And talked to you about it? A Naturally he would.

Q And he knew that Sipp was out of town at the time that this money was turned over to you? A Only what he read in the paper.

Q You and he were talking over your troubles between you? Didn't you tell him about that? A No.

Q In Judge Barlow's court, your brother was there for the purpose of seeing whether the hearing would go on or not, wasn't he? A He was not.

Q Did you ask him to come there to Judge Barlow's court? A I did not. He was not there in Judge Barlow's court.

Q He was not there in Judge Barlow's court? A He was not.

Q Where was he? A I don't know.

Q When Johnny Hartigan came down, where was your brother then? A Oh, Judge Barlew was sitting then.

Q Where was your brother when Johnny Hartigan came down?

A Right out here in the lobby.

Q Do you know why your brother did come down to this Criminal Court Building? A Yes.

Q Was it in connection with your trouble? A To see how I was getting along.

RE-DIRECT EXAMINATION BY MR. WHITMAN:

Q Now Fox, has any promise of any kind relative to immunity, been made to you by the District Attorney or any member of his staff? A There has not.

Q Have you asked the District Attorney or any member of his staff, or the court for any immunity? A I have not.

Q Has any hope of reward of any kind been offered or extended to you? A There has not.

Q You are out on bail now, having pleaded before Mr. Justice Goff of the Supreme Court. Is that true? A I have.

Q At the time you pleaded, the Court stated that he would defer sentence until you had rendered such assistance to the State as you might be able to? A That is true.

Q He said then you would be arraigned for sentence when the District Attorney informed him you had rendered the

service which you said you could render to the State. Is that true? A He did.

Q Your counsel you say were Grant & Rouss? A Yes.

Q Have you learned since you pleaded guilty in this court and before this trial began, that Mr. Grant had died?

A I have.

Q Have you returned the \$250. to your brother, which you borrowed from him? A I have.

Q And you obtained the money which you returned to your--
MR. TALLEY: Don't lead him.

Q Where did you obtain the money which you returned to your brother? A Captain Walsh.

Q From Captain Walsh, and when did you make that payment to your brother? A Shortly after the New Year, in January.

Q Did you inform your counsel before you pleaded guilty, in the morning of that day, on Monday, that you were going to plead guilty? A I did.

Q Had you seen the District Attorney or any representative from his office at that time? A I had not.

Q Did you inform him on coming into court that you were going to plead guilty? A I did.

Q Did you inform both Mr. Rouss and Mr. Grant that you were going to plead guilty? A I did.

Q Had you had any conference with any representative from the District Attorney's office, or from the Court at that

time, except your counsel? A I had not.

Q When you stated to Mr. Grant that you were going to plead guilty, had he stated before that that he would go and see the District Attorney? A He told me he would.

Q After you told him you were going to plead guilty?

A Yes.

Q When you had pleaded guilty in the afternoon, did he inform you that he had seen the District Attorney? A Yes.

Q Did he inform you that the District Attorney expected to see you after you had pleaded guilty? A He did.

Q But not before? A No.

Q When you stated in general--I may not quote you exactly correctly--in answer to Mr. Smyth that your statements from day to day differed, did you mean you added more to them after? A That is what I mean.

Q And not that you changed anything? A No.

Q Is that true? A No, it means I simply added on each day.

Q You did not change any of it? A No.

Q Did the District Attorney or his representative ask you further questions with regard to other incidents from day to day? A Yes.

BY MR. SMYTH:

Q What I was trying to find out from you at such great

length, what promises had been made, why did you not tell us what Judge Whitman has just been telling us as to what the Court--

MR. WHITMAN: I submit he did not ask him the question.

THE COURT: I will sustain the objection.

MR. SMYTH: Exception.

Q It is perfectly true, is it not, that your hope of leniency or mercy rests not so much on your act in telling the truth, but in convincing the District Attorney that what you are telling is true and that it is satisfactory to him, is not that right? A No, telling the truth.

BY MR. WHITMAN:

Q You understand that the Court and not the District Attorney imposes sentences, don't you? A I do.

G E O R G E A. S I P P, called as a witness in behalf of the People, being duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. CLARK:

Q Where do you live, Mr. Sipp? A 56 West 130th Street.

Q In the Borough of Manhattan? A Yes, sir.

Q And were you formerly the proprietor of a hotel at the corner of 124th Street and Lexington Avenue? A I was, yes, sir, for ten years.

Q What period was that? A From 1900 to 1910, October

the 21st.

Q Do you know Fox--Eugene Fox who was a policeman? A I do, yes, sir.

Q When did you first know him? A I have known him all of the time that I have been in the hotel business.

Q And did you ever have any relations with him of a financial nature? A I did.

Q During what period? A I think it was the year 1907.

Q What were the financial relations? A I paid him \$100. a month.

Q What for? A So-called protection.

Q Protection of what kind? A Well, selling liquor after hours at night, selling on Sundays, running a transient hotel.

Q Was your hotel what is commonly known as a Raines Law hotel? A No, sir; it was a hotel before the Raines law went into existence.

Q And after the Raines law came into existence, it came within the province of that law? A No, sir. The Raines law was enacted for a ten room hotel. My hotel had 66 rooms.

Q You say you were the manager of that hotel during that period until October 1910? A I was the proprietor of the hotel.

Q You had a bar there? A I did, yes, sir.

Q Sold liquor? A Yes, sir.

Q Occasionally sold liquor after hours? A Until three or four o'clock in the morning and all night to the roomers.

Q Did you have any conversation with any one when you first began paying this money? A I did. I had a conversation.

Q With whom? A Fox.

Q Who else, if any one? A Captain Walsh.

Q And what was the conversation so far as you can recall it? A Why, I originally started in the hotel--

MR. STANCHFIELD: Same objection. We object to it as incompetent, hearsay, irrelevant, immaterial and no foundation laid for its introduction.

THE COURT: Yes, I will sustain the objection to this conversation with Walsh. That is not part of the alleged conspiracy.

MR. CLARK: I was simply getting it for the purpose of further elucidation, that was all.

Q Until how late a period did you pay that amount to Fox?

A How late a period?

Q That \$100. a month? A Until December 1st, 1911, a year after--a little over a year after I sold the hotel.

Q You say you paid the money after you sold the hotel?

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A I did, yes, sir.

Q Out of your own funds? A No, the Baltic Hotel Company sent me the money and I gave it to Fox. Fox used to call for it.

Q Where were you when the money came to you? A Sometimes at my office--most often.

Q Where was your office? A Twelfth Ward Bank Building, 125th Street and Lexington Avenue.

Q After the 1st of January 1912, did you pay any further money to Fox? A 1912?

Q Yes. A 19 11.

Q After the 1st of January 1912, did you ever pay any money to Fox? A No, I did not.

Q Why not? A Do you wish me to explain to you?

Q Yes. A Fox came down at the hotel that I opened at 116th Street on December 1st--

Q What hotel was that? A The Central Hotel.

Q When did you open that hotel? A November 19 11, the 1st of November.

Q 1911? A Yes, sir.

Q Yes. A And he came down and in the meantime I had one of my clerks arrested there.

Q You had him arrested? A He was arrested. One of my clerks had been arrested and Fox--

Q By whom, do you know? A By two officers.

Q Do you know who they were? A Yes, sir, Costuma, Donnelly and Robinson.

Q Thomas P. Robinson? A Yes.

Q Did you know whose men they were? A I did, yes, sir.

Q Whose men were they? A Sweeney's.

Q Working under the inspector? A Yes, sir.

Q All right. You say you saw Fox? A Yes, he came down that evening and I said, "Well, Gene, I suppose you are on for that money." He says "Yes." I said "Yes, they have just sent it down." I says "You take this \$100, and go back and tell that boss of yours that is the last dollar I will ever handle for him. He will find some other course to get his ready money. I am through. That settles it. I am going to close this place up next week myself."

Q To whom was that message addressed? A To Eugene Fox.

Q You say to tell his boss? A Whoever he took the money to, Walsh or Sweeney.

Q Thereafter you paid no further money? A I paid no more after that, no, sir.

Q This hotel that you are speaking of now is not the Baltic? A It is not, no, sir.

Q That is the Central Hotel, 116th Street and Third Avenue? A Yes.

Q When did you buy that? A I didn't buy it. The license

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was revoked there and I went to Albany and got the license back again.

Q Then did you become the manager of it? A I did, yes, sir.

Q How long did you run it? A About five weeks.

Q Did you have any conversation with any of these defendants--any one of the four defendants here? A No, sir.

Q Then you say that within a few weeks from the time you opened it, you were arrested by Sweeney's men. Who was it that was arrested? A The clerk.

Q What was his name? A Thomas Greenleaf and the chambermaid.

Q Who was the chambermaid? A Katie O'Day.

Q Did you then suspend business? A After the arrest.

Q Yes. A Not at that time, no, sir.

Q How soon? A About ten days after--fifteen days after.

Q Do you remember the 18th of December, Mr. Sipp, 1912?

A The 18th of December?

Q Wednesday the 18th of December. To refresh your recollection I will tell you that that was the day you appeared before the Curran Committee, so-called? A I do, yes, sir.

Q Do you remember going down there to the City Hall and appearing before the Committee? A I do, under subpoena, yes, sir.

Q Did you give testimony there before the committee? A I did, yes.

Q You say you were under subpoena. When did you get the subpoena? A Mr. Buckner, counsel for the committee, and Mr. Driscoll called at my house the evening before, and served me with a subpoena to appear at the Aldermanic Committee the following morning. Mr. Driscoll came to my house the next morning and I went down with him.

Q Then you gave testimony down there? A Yes.

Q You were sworn? A I was.

Q And gave testimony on the stand, just as you are doing here? A Yes, sir.

Q After you had given that testimony, did you hear that Fox was arrested--that is sometime afterwards? A Yes.

Q When, if you recall, did you hear he was arrested?

A Why, I believe he was arrested the day before Christmas, the 24th.

Q Prior to that time had you given any testimony anywhere else? A Yes, I had.

Q Where? A Police Headquarters.

Q Do you remember the day that it was--it was Wednesday you testified before the Aldermanic Committee? A I think it was the 15th or the 18th.

Q Wednesday the 18th was the day you testified before the Aldermanic Committee? A Well, well it was about a week

after that.

Q You don't recall the exact date? A No.

Q It was before Christmas, was it not? A Yes, it was before Christmas.

Q Then you say about Christmas day you heard of Fox being arrested, is that right? A Yes, sir.

Q Now did you ever receive any other subpoena than the one which you say was served upon you by Mr. Buckner? A I did/

Q What? A A subpoena was served at my house on Christmas Evening, to appear before Magistrate Barlow in the Criminal Court Building here.

Q That is in the Magistrates Court over here? A Yes, sir.

Q When did you get it? A I got it on the 25th, in the morning, lying on my desk.

Q Against whom was the case in which you were subpoenaed, according to the subpoena? A Against Fox.

Q What did you do when you got it? A I telephoned Mr. Newell, my attorney.

Q This was the morning of the 26th? A Yes, sir.

Q Day after Christmas? A Yes, sir, about half past nine.

Q After telephoning him, what happened? A I rang his house up at 113th Street and Broadway, and he was in the bath

room. I spoke to Mrs. Newell, I believe it was; and I told her I wanted--

Q Never mind. Subsequently did you get Newell on the telephone? A No, I did not. He rang me up about twenty minutes after that.

Q You did speak with him that morning on the telephone? A Yes, sir.

Q After that conversation did you see him? A I did, yes, sir.

Q Did you tell him in that conversation that you had been subpoenaed? A I did, yes, sir. I had some conversation with him over the telephone.

Q What was the conversation? A I told him that I had a subpoena to appear and my son had a subpoena for that day, on the 26th, for to go down to Police Headquarters in the case of Eugene Fox. He said "Where is the boy, George." I says "He is in bed yet Ed." He says "Don't let him out." I says "Mrs. Sipp is home." He says to tell Mrs. Sipp when he gets up, to keep him in the house, "and you come right over to my house and see me before he goes out." So I ordered my machine, jumped in and went over to Mr. Newell's house.

Q I show you this paper and ask you if that is the paper which you designate as the subpoena? (Handing paper to wit-

ness? A. Yes, sir.

MR. CLARK: I will offer that paper in evidence, if the Court please.

Said paper was admitted and marked PEOPLE'S EXHIBIT NO. 5.

MR. CLARK: I will just exhibit this to the Jury if any of them care to see it.

Q You say you then got in your machine and went over to Newell's house? A Yes, sir.

Q Did you see Newell when you got there? A I did.

Q Had a conversation with him? A I did.

Q What was the conversation? A He said "My gracious, George, he says" you don't know what you are doing." I says "What do you mean?" "Why", he says "you don't know what a stink you are going to stir up. You don't know the consequence of this." I says "What do you mean?" Why he says "That Aldermanic Committee--why didn't you consult with me before you went down there?" I said "I only told the truth. What row can there be about it?" He says "You don't know where this thing is going to lead to." I says "I can't quite understand you where it is going to lead to. I don't know what harm can happen to anybody that goes down and tells the truth. I am making good everything I said." He says "George, I have been your counsel for a good many years. I think the best thing for you to do is to go away

for a little while." I says "It wouldn't look very well for me to go out of New York now." He says "I don't know there can be no trouble come to it as far as you are concerned. You frequently are away to Europe and stay a month or six weeks and go off on little trips." I said "Of course you know best Ed, but I am in a business where I have to sign ~~many~~ all checks. I can't go very far away." He says "Why don't you go down South--take the steamer and go down South tell and then you are going to have a vacation and the trip will do you a lot of good." I says "I can't go very far away." He says "If I can get you your expenses to go away, won't you go." Well, I says "If you think it is quite so important, Newell, of course I will do as you say." He says "I think it is really necessary for you to go away." Do you want me to tell what took place?

Q What happened after that? A He got up then and went out to the telephone in the hall and rang up Inspector Hussey at Rockaway.

THE COURT: I do not think we ought to take that, unless it is connected. If you object, I will sustain the objection.

MR. CLARK: I heard no objection.

MR. SMYTH: No foundation has been laid for that.

THE COURT: No. I will strike that out.

Q After he said that, what did he do? A He went to

the telephone.

Q What did he do when he got to the telephone?

A He telephoned.

Q Did you hear his conversation? A I heard him call up Rockaway numbers. I heard him ring up a long distance phone over in Rockaway.

Q Did he speak with any one there? A He spoke to somebody, but I don't know who it was.

Q After he had spoken, did you have any further conversation with him? A He said "Now I tell you what you do.

You go home and tell Howard to be down to my office at four o'clock to-day and not go near Police Headquarters. Let him get down there around half past two or three o'clock and stay there and I will get in touch with these men to-day, and you ring me up around half past five to-night and I will tell you just exactly what I want you to do." I went home and my son went downtown to Mr. Newell's office and stayed there. At five o'clock I rang Mr. Newell up. Mr. Newell was out. I ran him up ten minutes after. He was still out. I rang him up at half past five and Mr. Newell was there and he said "Come right down here." I took the subway and went down and went to Mr. Newell's office and he said "I expect to hear from those people at six o'clock." He says "It is now about three minutes to six." I sat there with

him, no conversation in particular. He took his watch out and says "Well, its funny. They were to be here at six o'clock but its two minutes past six now." He says "I guess I will ring him up. I says "Who are you going to talk to Ed?" He said "Rouss", and he called up Mr. Rouss' office and said "Is this you McNulty," and it seems that they did not quite understand him in Rouss' office--

Q Never mind that. Did he telephone? A Telephoned to Mr. Rouss' office.

Q Did he have a conversation of the telephone then?

A Yes, sir.

Q Did you hear the conversation? A He said "Well, what are they--"

Q Did you hear it? A Yes.

Q What was it? A "Well, what are they going to do", and I don't know what they said, and he held his hand over the mouth piece and said "George, they are willing to give me a thousand dollars to give you to go away. What do you say about it?" I said "I leave it entirely with you." He hung up the receiver and we left and came up-town. On the way up he told me that he had to meet Mr. Rouss at 96th Street and Broadway in a cafe there and for my son and me to go up to Stillbauer's and have my supper and that he would see me there after we had supper. We went up to the cafe and

had supper. We walked out and met Mr. Newell. He said "It is all right. I will tell you what you had better do. You had better go away to-night or they may probably come up again and induce you to go down there."

Q This was all on Thursday the 26th? A Yes, sir. He said "I will meet you over in Jersey to-morrow at the Union Trust Company in Jersey City at four o'clock and I will have the money over there and we will talk the matter over." Do you want me to continue?

Q Was that all the conversation you had? A I bid him good night. I walked to 110th Street with him. He went home and my boy went uptown.

Q Where did you go? A Over to Jersey City.

Q Did you see him again in New York? A No, sir.

Q That week? A No, sir.

Q Did you have any further communication with him?

A Any further communication?

Q Any further communication with Newell? A I spoke with him on the telephone.

Q When? A The following day.

Q Friday the 27th? A Yes.

Q Did you come over to court on the 27th, at 2 P. M.?

A No, sir.

Q Where were you at that time? A In Jersey.

Q Where was the subpoena, what had you done with that?

Left it home? A After I showed it to Mr. Newell and came home and told my boy and Mrs. Sipp, I put it in my cabinet.

Q You say you had a conversation on Friday? A Yes, sir.

Q With Newell? A Yes, sir.

Q Over the telephone? A Yes, sir.

Q What was the conversation? A Well, it was raining very hard and I was standing outside of the Union Trust Company and he didn't show up, and my feet was wet. I was blue. I had no overcoat, no umbrella, and he didn't show up, so I rang him up.

Q When did you first speak with him on the telephone on that day? A About a quarter past four I believe it was. Our engagement was four o'clock.

Q You then called him up? A Yes, sir.

Q Had a conversation with him? A I did, yes, sir.

Q What was the conversation? A I asked him how it was he wasn't over there. It was raining hard and I had no umbrella or overcoat and my feet was wet. I asked him if he was coming. He said he would be right over in the tube. He got there a little after five o'clock.

Q Did you have any conversation with him when he came? A Yes, sir, we went across in the hotel on the corner. We sat in the booth there and he says "Well, come on and we will have a drink." We went in the hotel on the corner.

We had a drink and we sat down in a little booth there. He says "Well, George, I have got \$250. of the money." He counted it out. He says "I will tell you I am going to keep \$500. of this \$1,000. for myself." He handed me \$150. He said the reason why that he did not have it all was that the people interested were afraid to go to the bank to draw it out, afraid Whitman was watching the banks. I says "I don't think it would be very hard for these people to get a thousand dollars together, Newell." I says "\$150. is not going to keep me a great while." He says "Don't feel uneasy about this thing. Its all arranged. We will have the money Saturday." Of course, "You know all about it." I walked down to the Pennsylvania tube with him. He said "The best thing for you to do is to go down to Red Bank." He says "You will find a very pleasant hotel down there, the Globe Hotel and get acquainted down there; lot of countrymen down there and you can have a lot of fun." I says "I don't feel much like having a lot of fun". I says "The way I feel now, I feel like going back." "No, no, don't talk so foolish about going back. You go on down there and I will be down there to-morrow with the rest of the money."

Q Down at Red Bank? A Red Bank, New Jersey, yes.

Q Did he leave you then? A He says "I will telephone

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Mrs. Sipp and tell her that you are going down to the hotel down at Red Bank and to let her know where you are, so that she can take you down some clean clothing." Mr. Newell left me then and went home in the tube. I did not go down to Red Bank that night. I looked up the time tables.

Q Where did you stay? A I stayed over there in Jersey City.

Q At what place? A I don't know. Small hotel there I forget the name of it now.

Q Did you get in touch with Newell morning? A The following morning?

Q Yes, Saturday morning? A I did not.

Q Did you see any members of your family? A I did, yes sir.

Q Who? A Mrs. Sipp.

Q When? A I went down to Red Bank, Saturday morning myself, because he told my wife that that is where she would expect to find me, and I met her at the depot at Red Bank.

Q How long did you stay in Red Bank? A About twenty minutes--twenty or twenty five minutes or so.

Q Did you communicate with anybody from Red Bank?

A From Red Bank?

Q Yes, did you telephone to anybody? A Yes, I telephoned my son.

Q Where was he? A In New York.

Q Anybody else? A Not that I recall.

Q What did you do after you spent your twenty minutes in Red Bank? A Took the train and came back.

Q Back where? A To Newark.

Q Stopped in Newark? A Yes.

Q Did Mrs. Sipp stop too? A No, she came on. She had a purpose to go to Mr. Newell's office that I forgot to explain to you.

Q She had an appointment to meet-- A I told her to go there.

Q Was that pursuant to any conversation you had had with Newell? A Yes.

Q When? A On the Friday.

Q That was the day before? A Yes. Mr. Newell--do you want me to relate it?

Q Yes. A Mr. Newell said "George, to show good faith, they want Howard to sign a sort of a paper." I said "What kind of a paper?" He said "Well, a paper to state that he never seen you pay any money to Fox and that he never did pay any." I said "Ed, that boy will be purjuring himself to do that." He says "Oh, no, no, there is nothing to it," he says. "Well", I said "I don't think that would be the proper thing for him to do." Well he said "I don't see any harm in it, I am a lawyer". Well, I said "I do." So I did not agree to have the boy sign the paper. I did not care

to have the boy sign the paper, and that was the first thing that I told Mrs. Sipp after I thought it over.

THE COURT: Don't go over that conversation.

Q Never mind what you told Mrs. Sipp. You talked to Howard that morning, did you? A Yes, I rang him up at the Hotel Braddock.

Q What did you tell him? A I told him that Mr. Newell wanted him to sign a paper to the effect that he had never seen me pay any money to Fox or that he had never paid any himself and I told him not to do it under any circumstances.

MR. WELLMAN: I move to strike that out.

MR. CLARK: I asked specifically what the conversation was, endeavoring to call counsel's attention.

THE COURT: I think it ought to go out. I will strike it out and the jury will disregard it.

Q Now when did you next have any communication with Newell. You say you returned to Newark or you went to Newark from Red Bank, what time of day? A Why, it was around one o'clock I believe that we got the train back to Newark. Mrs. Sipp remained on the train and went to Mr. Newell's office at my direction.

Q You stopped off at Newark? A Yes, sir.

Q This was Saturday the 28th, is that right? A Yes, sir.

Q When you got to Newark, did you communicate at all with Newell? A No, Mrs. Sipp told him where I was--that I came

back to Newark.

Q Did you have any conversation with him at all that day, either over the telephone or otherwise? A Yes.

Q What, when and where were you? A Why, Mr. Newell came over that night from his office.

Q Came over to Newark? A Yes, sir.

Q Where did you meet him? A At McNulty's Hotel opposite the Union Trust Company in Jersey City.

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

Q What was it? A He came over and said "George, this being Saturday the banks are all closed and these people can't get the money. I says "I am not going to be bothered around this way, Newell.

1 I have a good mind to go home. I am getting a little uneasy." He says "I am telling you stand pat. You are away now, don't go back." He said "It will be all right. I will positively have the money on Monday next, " and then my son came over with the machine.

Q To Jersey City? A Yes sir.

Q That same night? A Yes sir, Mr Newell was there at the time.

Q Where did you stay that night? A Continental Hotel in Newark.

Q Did you have any communication with Newell the next day? A Well, I had an appointment with him when I left him Saturday night, that he would ^{ring} ~~ring~~ me up at the Continental Hotel on Monday at four o'clock.

Q On Monday? A Yes sir, the following Monday, but I rang him up at his house on Sunday morning and spoke to him.

Q Had a conversation over the telephone? A Yes sir.

Q What was it? A He said that he was going to see one of the Inspectors that day.

Q Anything further? A Nothing further then.

Q Did he say which one? A Inspector Hussey.

Q Where did you stay Sunday night? A Sunday night?

Q Yes, Sunday night, the 29th? A Stayed at the Continental Hotel.

Q Then the following day, Monday, did you get in touch

with Newell again? A He rang me up at four o'clock.

Q At four o'clock, according to the previous appointment?

A Yes sir.

Q Where were you? A Continental Hotel.

Q Did you have a conversation with him? A I did.

Q What was it? A He said "Is that you Mr. McNulty?" I said "Yes". That was the name Mr. Rouse, Mr. Newell and me were under -- McNulty, when we spoke to one another. I says "Is that you, Ed?" He says "Yes". He says "Well, I have got that money," and he says "I will be out with it in about an hour." I said "Detective Conway is here, Ed." He said, "Who?" I said "Detective Conway." He said "Has he been talking to you?" I said "He has." He says "Why did you talk to him?" "Why" I said, "I haven't said anything. I have known John for a number of years and we are sitting here in the lobby conversing about old times." He says "Have you told him that I am coming out?" I said "I certainly have." He says "What does he want with you?" I said "He wants me to come over with him, Dougherty wants to talk with me a little while." He says "What did you tell him?" I says "I told him you were going to ring me up at four o'clock and I will do just as you said." He said "All right. I won't come to the hotel. You meet me at Shelton's restaurant." I said "All right." Mrs. Sipp and my son were both there in the parlor. About twenty minutes after that,

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officer Conway and myself walked down to Shelton's restaurant and Mr. Newell was standing outside. Mr. Newell knew Detective Conway and he says "Well, John, what do you want?" He says "I came over to ask George to come and have a talk with Dougherty." Newell says, "What does he want with him?" Conway says "I don't know." He says "He can come back again." He says "Can he come?" He says "I don't know about that, John. I will have to talk with him about it." He says "I will ring you up tomorrow at twelve o'clock. Where are you?" I says "I am at the Lenox Avenue station house." He says "I will let you know whether George will be over or not."

Q What further happened? A Mrs Sipp and my son in the meantime -- I had told them that I was going down to the restaurant to meet Mr. Newell and they came down and went in to the restaurant, and we went in and ordered supper.

Q Who, you and Newell? A Yes, my wife and son also. He said "Come downstairs, George, I want to talk to you privately for a few moments." We went downstairs in the lavatory. He says "I have got that money for you, but they insist on having that paper signed by your son." I says "Newell there isn't one chance in a million of that boy signing that paper." I says the best thing for you to do is to take that money and give it to the man with my compliments." I says "I am going back to New York." He says "Don't you do that." I walked in the rear of the restaurant where my wife

and son were sitting and I says to my wife "Newell insists on my boy signing that paper and I told him under no circumstances would he sign it and I told him to take it back to New York and give it to the people he got it from."

Q Had he told you who he got it from? A He told me it was brought down to his office and put in his pocket.

Q What was that? A Mr. Newell told me he had it brought down and put in his pocket in his office.

Q That was all -- A On Monday evening.

Q The 30th? A Yes. So I got my boy to get my things together, with the object of coming back to New York and Mr. Newell, "Well, as long as you have got the dinner ordered, just order me a sandwich or something; I am not very hungry. Where is there a telephone around here?" I said, "There is one right out there." He says "There is too much racket here with the noise and music. We will go and find one., more quiet." We walked up the street about two blocks west, by the telephone company with a telegraph office in it, at 749 Broad Street. We went into the telephone and he rang up Mr. Rouss's house and I had the door of the telephone open while Mr. Newell was talking and he said "I can't get young Sipp to sign the paper nor his mother or father won't consent. What am I going to do with the money?"

Q What else did he say, if you heard anything? A I don't know what Mr. Rouss said to him.

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Q What else did Newell say, if you heard? A I didn't hear him say anything else, only that it was impossible to get him to sign it.

Q Did he do anything else there? A Yes, he rang up Mr. Hussey down on the Rockaway --

~~THE COURT:~~ MR. WHITMAN: I move to strike that out, if your Honor please.

THE COURT: Yes.

Q What did he do, call for a number? A Yes, two numbers after that.

Q What were they, do you recall? A I can't, no sir.

Q Do you know what central they were? A Rockaway.

Q You don't remember the numbers? A I do not, I paid for three calls.

Q Then what did you do? A Do you want me to tell the what conversation, ~~with~~ Mr. Newell said to me, coming out of the telephone booth?

Q Did you have a conversation with him after he came out?
A Yes.

Q What was it? A He said "Well, its left this way, George, Rouss is going to see Sweeney and Hussey tonight and will arrange whether to give you that money or not." He says "Rouss can't say to give it to you, because the boy was supposed to sign the paper, but he is to ring us up at the Continental Hotel tonight at twelve o'clock and then you will

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know whether or not I am to give you the money or to take it back to Sweeney again."

Q What did you do then after you got through telephoning?

A I went back and finished my dinner at the restaurant with my wife and Mr. Newell and my son. Mr. Newell said he had an old client living in Newark and to while away the evening he would go and see him. I took Mrs. Sipp to the subway station. My boy went to the theatre.

MR. WELLMAN: Do we have to have the full movements of the family?

Q What did you do? A I took Mrs. Sipp --

Q What did you do that evening? A I came down to Jersey City with my wife in the tube.

Q After that? A I took the tube back to Newark again.

Q And then? A I met Mr. Newell outside of the Continental Hotel.

Q What time was that? A About ten o'clock.

Q Then what did you do? A Went to a show.

Q After that where did you go? A Back to the Continental Hotel.

Q What happened when you got back there? A The boy came up to me -- one of the bell boys and he said you were just --

THE COURT: wait a moment.

Q Nevermind what the bellboy said. What happened? Who had the conversation with the bellboy? A I did.

Q After that what happened? A Mr. Newell went to the telephone.

Q What did he do? A Rang up Mr. Rouss.

MR. WELLMAN: That we object to.

THE COURT: Strike it out.

Q What did he do?

BY THE COURT:

Q You saw him go to the telephone? A Yes sir.

BY MR. CLARK:

Q Did you hear what was said when he went to the telephone? A Yes.

Q What was said? A He said "This is Mr. McMulty."

Q Yes. A And I don't know what was said from the other end.

Q Did you hear anything further said by Newell? A No sir.

Q Then after he came out from the booth, did you have a conversation with him? A I did, yes sir.

Q What was the conversation? A He said "All right; I am to give you the money. It's all right."

Q Then what was done? A And we went in the cafe and he gave me the balance of the money, five hundred and fifty dollars. He said "That's like them fellows; they ^{want} ~~want~~ to even refuse it now because the boy won't sign the paper."

Q He did give you the five hundred and fifty dollars?

A Yes sir.

Q Where did you spend that night? That was Monday the hotel now.
30th? A Why, I forget the name of the ~~house~~. Mr. Newell stayed there with us.

Q Golbe Hotel, was it? A No.

Q Holland House? A Holland House, yes sir.

Q What did you do the next day? A The following day, Tuesday?

Q Yes. A We got up, dressed ourselves and had breakfast.

Q Did you go anywhere? A Did I go anywhere? I did. I went down to Elizabeth and I got a five hundred dollar bill changed there. I didn't know whether the country hotels would have change or not.

Q Where were you going to? A Asbury park.

Q Did you go to Asbury park that day? A Yes sir.

Q How long did you stay there? A I think three or four days.

Q Where did you go from Asbury park? A Atlantic City.

Q What day did you arrive in Atlantic City, do you remember, the day of the week? A I think it was on Friday. I can't recall the date.

Q Did anything happen to you in Atlantic City? A Saturday night, yes sir. I was arrested Saturday night.

Q Arrested? A Yes sir.

Q Do you know on what warrant you were arrested? A Well,

in the afternoon -- do you want me to tell what took place in the afternoon?

Q Yes. A I saw the Evening World --

THE COURT: No.

Q You read the paper in the afternoon? A Yes sir.

Q What happened after you read the paper? A I sent Mr. Newell a telegram to ask him what that was I saw in the Evening World. He rang me up about six o'clock.

Q Down there? A Yes sir.

Q What did he say? A He said "Keep under cover for a little while. Everything is all right. You have got nothing to fear." I said "I don't like that what I see in the newspapers."

Q What did he say? A He said "Don't you bother about that. There is nothing to that."

Q What time of day was it you were arrested? A An hour after that, seven o'clock.

Q Under what charge were you arrested? A Sodomy.

Q From what jurisdiction was the warrant issued? A New York State.

Q Were you confined in the jail there at Atlantic City?

A I was, yes sir.

Q For how long? A From Saturday night until Thursday.

Q Of the following week? A Yes sir.

Q Thursday the 9th is it that you were released? A Well,

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I really don't remember. It was the following Thursday.

Q The following Thursday was the 9th. Saturday was the 4th? A It was on a Thursday that I was released.

Q What did you do when you were released? A Walked out.

Q Had you at that time seen anybody from the District Attorney's office in New York County? A I had, yes sir.

Q Who? A Mr. Groehl.

Q Had a talk with him? A I did, yes sir.

Q What was that talk?

MR. WELLMAN: That is objected to.

MR. CLARK: I withdraw it.

Q When did you see Mr. Groehl again? A I ~~xx~~ saw Mr. Groehl then on the following Saturday at the hotel in Philadelphia.

Q You went down to Philadelphia that day? A The following day I went to Philadelphia.

Q Friday? A Yes sir.

Q Friday the 10th? A Yes sir.

Q On Saturday you saw Mr. Groehl in Philadelphia? A I did, yes sir.

Q Did you come back to New York? When did you leave Philadelphia? A I believe it was the following Monday. I telegraphed for my doctor to come on.

Q Where did you go from Philadelphia? A To Newark.

Q Did you see anyone from the District Attorney's office

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there? A I did, yes sir.

Q Who? A I saw Mr. Groehl and Mr. Stewart.

Q Where did you stay in Newark? A Well, I can't remember that hotel. It is on Broad Street there. I can't really recall the name.

Q Was it the Navarre? A Navarre, yes.

Q That was on Monday you say, or Tuesday. Sunday you went there? A Sunday we came there.

Q How long did you stay there? A Two days, I believe it was.

Q Did you see anybody else from the District Attorney's office? A I did, yes sir.

Q Who? A Mr. Whitman.

Q When was that? A Sunday night.

Q Subsequent to that time, did you come back to New York?

A After that?

Q After that, yes. A I did, yes sir.

Q When? A On the Tuesday, I believe it was.

Q Tuesday the 14th? A Yes sir.

Q Where did you go in New York when you returned? A When I came right back?

Q Yes. A Right here to this building.

Q What did you do? A Went up to Mr. Whitman's office.

Q Did you appear before any judicial body that day? A I did, yes sir.

Q Before what body? A Grand Jury.

Q Testified there? A I did.

Q Did you subsequently learn of the indictment of Fox?

A Oh yes.

Q Now, during all of the period, Mr. Sipp, while you were running your hotel there, were you or your employees convicted of any crime?

MR. STANCHFIELD: I object to that as incompetent, hearsay, irrelevant and immaterial.

THE COURT: I will allow it as to him. Sustained as to his employees.

Q Were you ever arrested and convicted yourself?

MR. STANCHFIELD: I make the same objection as to him.

THE COURT: I overrule the objection as to him.

MR. STANCHFIELD: Exception.

A I never was convicted, but arrested once.

Q When was that?

MR. STANCHFIELD: Same objection.

THE COURT: Yes, I will sustain the objection as to when he was arrested.

Q During all the period when you were running that hotel Mr. Sipp, the Avonel, the hotel variously known as the Boulevard, Baltic and Avonel, was any employee of that hotel to your knowledge convicted of any crime?

MR. STANCHFIELD: I object to that as hearsay, incompetent

and improper.

THE COURT: Yes, I will sustain the objection. If you want to prove the negative -- if you want to prove they were let alone, I think you have got to do that by asking a question in relation to him. In other words, I am disposed to allow him to prove the negative by putting those questions to this witness. What he wants to prove, if I understand it is, not that he has been arrested, but that he has not been arrested. I will take proof as to arrests.

Q Were any of your employees arrested during that period?

A They were.

MR. STANCHFIELD: That is over my objection and exception?

THE COURT: Yes.

Q How often, do you recall?

MR. STANCHFIELD: Note that at the head of the answer.

THE COURT: Yes, put that objection in as if it had been made before.

MR. STANCHFIELD: Same objection and exception.

Q How many times were they arrested? A About ten times in ten years.

Q Can you fix the date of the arrest? A I could not, no sir.

Q Can you fix it relatively to any other event? A I couldn't recall the date.

Q I am not asking about the date, but did you know the

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various inspectors from time to time who were serving in the inspection district which the hotel in which you were interested, was located? A I did, yes sir.

Q After the year 1907, who were those Inspectors?

MR. WELLMAN: We have had it over and over again. It has been stipulated.

MR. CLARK: All right.

Q Did the arrests which were made, to which you have referred result in convictions in any instance? A No sir, excepting --

MR. STANCHFIELD: That is objected to.

THE COURT: No, I will take that. Taking the arrest, I will now take the result of the arrest.

MR. STANCHFIELD: Exception.

A The only conviction there ever was on the different arrests was an Excise conviction.

MR. STANCHFIELD: That is over the same objection and exception.

THE COURT: yes, the objection is overruled.

MR. STANCHFIELD: Exception.

Q When was that?

MR. STANCHFIELD: Same objection.

THE COURT: same ruling.

MR. STANCHFIELD: Exception.

A About seven years ago.

Q That was before 1907? A Yes sir.

Q Since 1907, has there ever been a conviction of any employee of that hotel?

MR. STANCHFIELD: I object to that as hearsay, incompetent, irrelevant and no foundation laid for its introduction.

THE COURT: I allow it.

MR. STANCHFIELD: Exception.

A No sir.

THE COURT: I do not see how else he can negative that fact.

BY THE COURT:

Q You were there during all of that time manager of that place? A For ten years.

Q Employees reported to you what occurred there? A Yes.

BY MR. CLARK:

Q What were the arrests which were made; what offences were charged? A Keeping a disorderly house.

MR. STANCHFIELD: Objection to that.

THE COURT: Objection overruled.

MR. STANCHFIELD: Exception.

Q Was that so in every instance, excepting the one to which you refer? A Excepting the Excise arrest.

Q Were all of these complaints on which the arrests were made, dismissed?

MR. STANCHFIELD: I object again to that testimony, on the

ground that it is hearsay and incompetent, and no foundation laid for its introduction, and I supplement that with the additional objection that these police inspectors do not try and adjudicate these cases.

THE COURT: That is unquestionably true, nevertheless, it is part of the fact in the case that the complaint was made and that no conviction resulted. I do not say I take it as holding the police responsible for the failure of these prosecutions.

MR. WELLMAN: How could it be material in any other way?

THE COURT: It is a fact and circumstance in the case.

MR. WELLMAN: If the police were not responsible, how could it be material in any way?

THE COURT: If they stop there and go no further than that, I shall strike it out. Then I think it would not be material. I assume they are going to connect it.

"Q Were all of those complaints upon which the arrests were made, dismissed?" A Yes.

MR. CLARK: I am asking if he had a conversation with any of these defendants.

THE COURT: As to the first question, I will overrule the objection. I will take the answer to that question on the understanding that the District Attorney will connect it. If it is not connected, I will entertain a motion to strike it out. Now put your next question.

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Q Did you have any conversation at any time with any of these defendants, in regard to any of these arrests? A Directly with these defendants, no sir.

Q Did you have any conversation with any other police officers? A I did, yes sir.

Q With whom?

MR. WHILMAN: That is objected to.

THE COURT: Let him say with whom.

A Captain Walsh and James Wrenn.

Q When were those conversations first with Walsh? A Why, after an arrest was made, I went up and seen Walsh.

MR. WHILMAN: No, no.

Q Do you remember approximately when? A I think it was the year 1908. It was during the time that Inspector Thompson was there, and I asked Walsh --

MR. STANCHFIELD: If your Honor please, I move to strike that out. It illustrates exactly the point I had in mind, Walsh admitted on cross examination he never spoke to Thompson on this subject in his life. How unfair it is to Thompson. We cannot limit the influence of the atmosphere that might be created from this testimony.

THE COURT: This last answer from this witness is stricken from the record, and the jury are instructed to disregard it. Now I will not take his conversation with Walsh in

1908.

Q Who was this man Wren when you talked to?

MR. WELLMAN: That is objected to.

THE COURT: Objection sustained.

Q When was it? A I really couldn't tell what time it was. I think 1908.

Q In 1908 you had a talk with Wren? A I think it was.

Q Who was Wrenn?

MR. WELLMAN: I object to "Who was Wrenn?" He was a police-officer, I assume.

THE COURT: Sustained. Testimony on that point might be relative on the question of motive, but it is not part of this alleged conspiracy and is therefore mere narrative of past acts.

MR. CLARK: Your witness.

MR. STANCHFIELD: I ask your Honor to strike out all of the testimony in the case given by this witness, with reference to the several arrests of either himself or employees, or convictions of either himself or employees, on the ground that they have not been connected with the conspiracy, and I ask your Honor further to direct the jury that it is their duty to disregard that evidence.

MR. CLARK: If I may be permitted to reopen the examination for a moment.

Q Did you have a communication with any one of these four

defendants? A Directly to those?

Q Yes, either writing or talking with any one of them?

A Oh yes, I wrote a letter to Inspector Sweeney.

Q When was that?

MR. STANCHFIELD: I object to that, unless the letter is produced.

THE COURT: Lay a foundation for it.

MR. WEILMAN: I think the District Attorney can clear that by the relation to the 116th Street house.

THE COURT: I will sustain the objection. Now if you want to find out whether he wrote a letter to one of these defendants --

MR. WEILMAN: I say if the District Attorney told him that was in relation to the 116th Street house --

THE COURT: That is the reason I sustained the objection. Now I say if he wants to ask him if this witness wrote to one of these defendants, I will take that as a foundation.

MR. WEILMAN: If it was in relation to the 116th Street house.

THE COURT: I will determine that afterwards.

MR. CLARK: Do I understand the objection to have been overruled?

THE COURT: The objection that intimates what the contents of the letter was about, is sustained.

MR. CLARK: I did not ask that question. That was a suggestion made by counsel for the defense.

Q Did you write a letter to Sweeney? A I did, yes sir.

Q When was it? A About eight or nine months ago -- probably eleven months ago.

Q Did you receive an answer from Sweeney? A I did, yes sir.

Q Do you remember the date? A I don't recall the date.

Q What has become of the letter, do you know? A I believe that I gave it to Mr. Groehl.

MR. SMYTH: Does he say there was only one letter written to Inspector Sweeney? Do you say there was only one letter?
A One letter.

MR. CLARK: That is all.

THE COURT: Now, do you want to address your motion?

MR. STANCHFIELD: yes. I will ask your Honor to strike out all of the testimony that has been elicited from the witness by Mr. Clark, upon the question of the arrest of either the witness or his employees or the conviction of the witness or any of his employees, upon the ground that it has not been connected with the conspiracy, nor with either of these defendants, and I ask your Honor further to direct the jury that it is their duty to disregard that evidence.

MR. WELLMAN: Except, if your Honor please, I don't ask that this testimony with regard to a letter to Sweeney and

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an answer be stricken out, because I propose to offer the letter and the answer.

THE COURT: In so far as this witness has testified that no conviction followed arrests of his employees that were made, that testimony is stricken out and the jury are directed to disregard it. In further respects, the motion to strike out is denied.

MR. STANCHFIELD: My motion was with reference to arrests as well.

THE COURT: I knew, but I have denied it.

MR. STANCHFIELD: To that portion of it, I except.

CROSS EXAMINATION BY MR. WELLMAN:

Q Mr. Sipp, we will start with this letter if you please that you wrote to Mr. Sweeney. You said you only wrote one. I hand it to you. Can you identify it as the letter you spoke about? (Handing letter to witness)? A I do, yes sir.

Q Look at it. You got the date wrong by one year? A Well it might be. I never kept track of the date. I knew I wrote one letter.

Q But you see the date is wrong by a year, 1912? A Possibly so. That's the only letter I ever wrote.

Q Do you recognize this as the carbon copy of the answer you got (handing paper to witness); do you see the date should be 1912? A That is correct, yes sir.

MR. WELLMAN: I offer them both in evidence, if your

Honor please.

MR. WHITMAN: If your Honor please, the mistake is in the letter, not in his testimony. As a distinct impression is made on the jury, as it was made on me, until I saw it, that this letter was written in 1911 and not 1912.

THE COURT: If there is an objection, I will examine the letter.

MR. WHITMAN: I will object on that ground.

MR. WELLMAN: Mr. Whitman, you are mistaken about it. He has made a mistake in the date, because my next production will be where we sent it down to your office in 1912.

MR. WHITMAN: Mr. Wellman, you say he made a mistake in his testimony?

MR. WELLMAN: On the date.

THE COURT: The only question now is as to the relevancy of these letters. This witness having testified that he did send one letter to the defendant Sweeney and he got a reply, and these being identified as the letters, I will properly accept them in evidence.

MR. WHITMAN: I want to make clear that the letter was written in 1912, although dated in 1911.

(said letters were received and marked Defendants' Exhibit A and B. respectively.)

MR. WELLMAN: The date on Sipp's letter is wrong by one year. His testimony of about seven or eight months ago, is

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right. With your Honor's permission I will read it.

(Mr. Wellman read defendants' Exhibits A and B, to the jury).

Q Then you know, do you not, by being summoned to the District Attorney's office that both letters were sent to the District Attorney by Inspector Sweeney, on February 15th? A Do I know that?

Q Yes. A I knew the next night before I was summoned down. Walsh could tell about it. Walsh could tell --

THE COURT: Strike that out. Just answer the question.

MR. WELLMAN: I also ask that this carbon copy of letter from Inspector Sweeney be marked in evidence.

(said letter was received and marked Defendants' Exhibit C.)

Q They sent for you from the District Attorney's office to come down and give them evidence? A Yes.

Q Did you supply any evidence? A No, I employed Mr. McIntyre to come here with me.

Q Did you supply them with any evidence? A I did not.

Q Sipp, Inspector Sweeney closed up your 116th Street house entirely, didn't he? A He did not.

Q Did you not testify before the Aldermanic Committee in these words: "When Sweeney sent word to stop, I knew there was no use to go any further. On a Saturday I immediately shut down that hotel at an enormous expense." Did you testi-

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fy to that? A I didn't shut it down. I shut it down of my own free will, sir.

Q Did you testify to what I have read to you on the 18th of last December? A Yes, I did testify to that.

Q Was it true? A It is true. I shut it down myself.

THE COURT: Nevermind. You have answered it. Do not volunteer.

Q Now, you felt great animosity towards him for shutting down that hotel? A I am not in love with him.

Q I asked you if you felt great animosity toward him? A Not particularly.

Q Well, I ask you if when you saw him down at Police Headquarters at the time of the investigation on the 18th of December, you said to Mr. Thomas J. Dorian -- you know who he is? A I knew him very well.

Q Did you say to him "There is that rotten Irish bastard that called me down at 116th Street. I will get square with that bastard and I don't care how I do it." A At Police Headquarters?

Q Did you say that to Dorian at Police Headquarters? A I didn't see Dorian at Police Headquarters, didn't know he was there.

Q Did you say it to Dorian anywhere? A No sir, I did not.

Q You did not? A I did not.

Q Do you know what the words are? A I certainly do.

Q And you swear you never said that to Dorian? A I certainly did not.

Q Dorian is the man you passed over the 124th Street house to, isn't it? A One of them.

Q He is one of the company? A Yes.

Q So you knew him pretty well? A Very well indeed.

Q Well, didn't you say to Michaels -- you knew who Michaels is, don't you? A The man that ran away?

Q Nathan J. Michaels? A Yes, that's the man that ran away.

MR. WEILMAN: Strike that out. We don't gain anything by it.

THE COURT: yes, strike it out.

Q Did you say to Nathan J. Michaels at about that time, these words, speaking of Sweeney: "By the Jesus I will get hunk on him. I will go the limit if it takes every breath I have in my body and every dollar I have got in this world. By Jesus I will get square on him?" Did you say that?

A Never said such a thing.

Q You mean you are not in the habit of using profane words?

A I am not in the habit of using them.

Q Then you didn't say it? A I did not.

Q You say you never used such language of course. I ask you whether or not you said to your wife -- by the way did you hear your wife testify before the police? A Never knew

she was there. I was there when she was there and I didn't know it.

Q Did you ever use with her vulgar language in relation to Mr. Sweeney? A To my wife?

Q Yes. A No sir.

Q In relation to Sweeney? A I did not.

Q You don't use vulgar language; let me read from page 172, by Mrs. Sipp.

MR. CLARK: I object to the reading of Mrs. Sipp.

THE COURT: I will sustain the objection to reading from testimony of Mrs. Sipp.

Q Have you said to her invulgar language: "I will get even with that Sweeney?"

MR. CLARK: I object to it.

THE COURT: No, I allow that.

A I have not.

Q Did you ever say to Nathan J. Michaels -- you know him by the way? A I do, yes sir.

Q Did you ever say to him words in effect: "I will break that Irish bastard Sweeney if it costs me ten thousand dollars and takes me twenty years to do it?" A I have answered that question before.

Q I have not read you that question that I read you before. These are different words. A No sir, I never passed that remark.

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Q If it takes me ten thousand dollars and twenty years to do it? A I never did, no sir.

Q Did you say similar words to a Mr. John Galvin? A I haven't spoken to John Galvin in over a year.

Q Did you say similar words to John Galvin? A No, I did not.

Q You know him, do you? A I know him, yes.

Q He is an undertaker uptown? A Yes sir.

Q Did you say the same thing, or practically the same words to Mr. and Mrs. Oshls, the present owners of your place at 116th Street? A I did not.

Q You know them? A I do, yes.

Q It has been testified here that your wife and children, or child, whatever it was, lived for about three and one half years at the Baltic; is that right? A The first part of the lease, yes.

Q Did you keep a disorderly house there? A I did not, not at that time.

Q You did not? A Not at that time.

Q Have you kept a disorderly house within the last two years? A The last two years?

Q Yes. A I am out of business the last two years.

Q When did you keep a disorderly house? A I don't know that I ever kept a really what you call a disorderly house. I never asked for marriage certificates.

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Q I am not distinguishing between disorderly houses; you know what is meant by a disorderly house, I suppose? A A good many constructions can be put on that, counsellor.

Q I don't mean disorderly in the sense of fighting, but I mean disorderly in the sense that it is ordinarily used, where you let rooms for purposes of prostitution? A I never rented a room that I knew was for the purpose of prostitution.

Q Am I correct in interpreting -- do you wish to be interpreted. I don't want to go over in detail your statement, but interpret in a general way that Newell was the man who suggested to you that you go away? A Yes sir.

Q And you did not want to go? A I did not want to go, no.

Q You did not suggest it to Newell, in other words? A No.

Q You made no suggestion to Newell of going away yourself? A I did not.

Q Yet he tried to see if he could get Walsh to pay your expenses? A No sir he didn't try to get Walsh. I don't think he tried to get Walsh.

Q Not any thinking about it. You were there and knew what the conversation was? A Yes, but he never mentioned Walsh's name.

Q Did you mention Walsh's name? A I did not, no sir.

Q And what was said about going away was entirely on his suggestion? A Decidedly so, yes sir.

Q. And you went away that very night when it was talked about? A The very night.

Q You went to Jersey that very night? A I did, yes.

Q Had not you heard of some affidavits that were being collected at that time about this subject of sodomy? A Absolutely no.

Q You did not discuss it with your counsel? A I did not.

Q Is not that the reason you went away? A No sir, it is not. That is what brought me back so quick.

Q You did not come back until the Grand Jury had thrown out the charge against you? A I couldn't. I was in jail.

Q You did not come back with Conway when he was there in Newark, trying to persuade you to come back? A I was acting under advice of counsel.

Q I did not ask you what you were acting under. I asked you whether you came back when Conway tried to get you to come back? A He asked me to come back and I told him I would see what Mr. Newell said.

Q Did you come back? A No.

Q Did not Conway stay there some days trying to get you back? A No, Conway was only in Newark four hours.

Q Did you know they kept track of you all the time, followed you to Atlantic City, kept run of you? A I do not.

Q You did not know that? A I did not, no sir.

Q You told Newell that you were going to Elizabeth or

some place -- were going to some other place than Atlantic City, and you went to Atlantic City? A And there got arrested? A Newell wanted me to go down South, but on the Sunday I had to meet the President of my company to sign some checks and I didn't go South.

Q But when you heard from Newell in Jersey, you did not tell him you were going to Atlantic City? A To Asbury park.

Q Instead of that, unknown to Newell, you went to Atlantic City and there you got arrested? A I did not. I went to Asbury park and stayed there four days.

Q Didn't you know you were covered by the police all the time? A I did not, no sir. Had not the remotest idea.

Q Now, Gipp, I understand you to say that Newell tried to persuade you to sign an affidavit -- have your son sign an affidavit and you said "Why, that would be perjury. I wouldn't let my son sign a perjured affidavit." Is that right.

A That's true.

Q You would not have your son perjure himself or do it yourself, would you? A Not if I could help it.

Q You would not do it if you could help it? A Not if I knew it.

Q Well, do you recollect in the Police Department testifying -- page 141, yourself -- "paying money, well, I always insisted and believe it today that no money went to Captain Walsh." Did you say that? A Read that again please.

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Q "paying money." You asked that -- asked that again. Then you say "I always insisted and I believe it today that no money went to Captain Walsh". A That is what he so informed me.

Q Now I didn't ask you that. I asked you if you made that statement? A I did, yes sir.

Q You had been paying to Captain Walsh's ~~man~~ man Fox, who has been here all day testifying, taking this money from you for nearly seven years -- five to seven years, and you testified last December that you always insisted and believed that day that no money ever went to Captain Walsh? A That is what I was led to believe.

Q With your feelings of perjury you felt that was true? A I believe it true now.

Q You believe it true now that Captain Walsh never got any money? A So he made me believe.

Q You believe it now, and as I recollect it, you said your lawyer said to you "I am a lawyer. I see no harm in it." You said "I am no lawyer, but I do see harm in it, perjury." Is that right? A I certainly did, yes sir.

Q Then you went on to say that the son came over with your automobile? A Yes sir.

Q You see harm in perjury, don't you? A I certainly do, if knowing it.

Q Do you recollect that in November you signed a bond,

saying that you were worth a hundred thousand dollars over and above all expenses in December, 1911?

MR. WHITMAN: I object. You say in November,

Q December, 1911. A Yes sir,

Q Do you recall that you said at the Magistrate's Court in the Fifth District that you were worth one hundred thousand dollars above all indebtedness? A Yes sir,

Q Next April you went through bankruptcy? A Yes sir,

Q April, 1912, and in December your son is coming over with his motor car, over to Jersey?

MR. WHITMAN: I object.

THE COURT: I sustain the objection.

MR. WHITMAN: He said his son came in the motor car.

Q Did you go through bankruptcy in April? A Yes, I attempted to go through.

Q How long was it before you were discharged? You attempted to go through? Who blocked you going through? A I paid all my creditors.

Q Who blocked it? A I paid all my creditors, stopped it myself.

Q Well, how -- why did you attempt to go into bankruptcy?
A Because I borrowed the money from my wife. That 16th St. place got me in a bad hole.

Q Then you had your property in your wife's name? A Yes.

Q Did you have your property in your wife's name when you

swore you were worth one hundred thousand dollars over all expenses? A Mrs. Sipp had quite a lot of property.

Q Did you have your property in your wife's name when you swore you were worth a hundred thousand dollars over all expenses? A The house I gave, I had an equity of six thousand dollars and the bail was one thousand.

Q I asked you if you had this aversion to perjury, when you made oath that you were worth one hundred thousand dollars above all indebtedness in December, 1911, whether in fact your property was in your wife's name? A That particular house I gave there was in my wife's name? No. I wasn't worth one hundred thousand. I said ten thousand.

Q Why did you swear you were worth one hundred thousand? A I didn't read the bottom of that in the Police Court. There is always a crowd of people, yes or no. I said ten thousand and signed it. I knew I was safe. I had an equity of ten thousand dollars.

Q When did you find it was one hundred thousand dollars you had sworn to? A That was a mistake.

Q When did you find it out? A When I was going through bankruptcy.

Q You found out you made a mistake of ninety thousand dollars in your affidavit? A There was no wrong intended there, counsellor.

Q Who was it you bailed out? A Charles Greenleaf, yatie.

O'Day.

Q Were they employees of your Sixteenth Street house?

A They were, yes sir.

Q Now you swore with the same feeling about perjury, that Rouss said to you when he came over with the nine hundred and fifty dollars "I will know about it tonight and see whether I can give you that money tonight, or I shall take it back to Sweeney again."

MR. WHITMAN: Now I object, if your Honor please. There is no such testimony. In the first place, Rouss did not go over at all.

THE COURT: I will sustain the objection.

Q You recollect it, don't you? A I don't know Mr. Rouss.

Q I beg your pardon, Newell?

MR. WHITMAN: It was not nine hundred and fifty. It was five hundred and fifty.

MR. WHITMAN: No, but he had taken nine hundred and fifty over and gave him five hundred and fifty.

MR. WHITMAN: That is not the testimony.

Q Leave the amount out. Did he say to you "or I shall take it back to Sweeney again"? A Yes.

Q Do you swear he said that? A I do, yes.

Q Did not he tell you that Rouss had come over and given it to him in Jersey City himself? A Yes, but I knew it wasn't Rouss's money.

Q You said "I got a five hundred dollar bill changed in Elizabeth." Did he give you that that night? A He did, and a fifty.

Q Did he give you that that night? A Five hundred dollars and a fifty.

Q Not five one hundred dollar bills and one five hundred dollar -- a one five hundred dollar bill instead of five one hundred dollar bills? A Yes sir.

(The Court duly admonished the jury and a recess was taken until 8 o'clock P. M. of same day.)

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8 PM.

GEORGE A. SIPP, resumed the stand:

THE COURT: Have you concluded your cross-examination, Mr. Wellman?

Mr. Wellman: Yes, your Honor.

THE COURT: Any other counsel for the defense desire to cross examine?

MR. SMYTH: No, sir.

RE-DIRECT EXAMINATION BY MR. WHITMAN:

Q Do you know of these three hotels of which you wrote to Inspector Sweeney--the Morningside, the Glencourt and the Delmar? A Yes, sir.

Q Do you know that the Delmar and the Glencourt was closed immediately after Inspector Sweeney was suspended?

MR. BATTLE: Objected to.

THE COURT: Objection sustained.

Q Do you know that these two hotels were closed soon after January the first?

MR. BATTLE: Objected to as incompetent and immaterial.

THE COURT: Objection sustained.

Q Do you know whether these two hotels are now doing business?

MR. BATTLE: Objected to as incompetent and immaterial.

THE COURT: Objection sustained.

Q Do you know whether any of these three hotels were raided under the direction of Inspector Dwyer--

MR. BATTLE: Objected to.

THE COURT: I sustain the objection to any further questions along that line.

Q Did you have a conversation with Captain Walsh relative to these letters which have been introduced by the defense-- Defendants Exhibits A and B?

THE COURT: What is the date of those?

MR. WHITMAN: They bear the date February 12th, 1911 and February 14, 1912. It is conceded, I think by the defense that the date should be 1912.

MR. WELLMAN: Yes.

Q (Question repeated)--dated Monday February 12, 1912 and February 14th, 1912?

MR. WELLMAN: Objected to on the same ground.

THE COURT: Objection sustained, on the ground that that is not a declaration or act pursuant to the alleged conspiracy.

MR. WHITMAN: That is all.

MR. WELLMAN: That is all.

JOHN HOWARD SIPP, called in behalf of the People, being duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. CLARK:

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Q What are you ordinarily called--what name? A Howard.

Q Are you are son of George A. Sipp? A Yes, sir.

Q On the 25th of December 1912 were you at your home?

A In the latter part of the day I was, yes.

Q While you were there did you see detective Talk? A He came to the house.

Q Did you see him? A Yes, sir.

Q Were you there when he came? A Yes, sir.

Q Did he have anything with him when he came? A He had two subpoenas.

Q Did you see them? A Yes, sir.

Q What did he do with them? A He gave me one to appear at Police Headquarters.

Q (Handing witness paper) I show you this paper and ask you if that is the paper to which you refer which he gave you? A Yes, sir; that is the paper.

MR. CLARK: Do you wish to see it?

MR. WELLMAN: No.

(Said paper offered in evidence, admitted and marked Exhibit 6.)

Q And did you see the other paper? A Yes, sir.

Q Which was delivered at that time? A Yes, sir.

Q What was done with that? A The paper was left with the maid.

Q Did you see the paper afterwards? A Yes, sir..

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Q Is that the paper that was left with the main? (Handing paper)? A Yes, sir, that is the paper.

MR. CLARK: That is already marked Exhibit 5.

Q This Exhibit 6 which you have referred to as a paper which was delivered to you, called for your attendance at Police Headquarters on December 26th, at 4 o'clock P. M. Did you go there? A No.

Q Where were you at that hour? A At 4 o'clock P. M. I was at 42 Broadway in the office of Edward J. Newell.

Q How did you come to go down there?

MR. WELLMAN: Objected to.

Q When did you go down there? A About three o'clock in the afternoon.

Q Did you have any conversation with any person before you went down, in regard to going down there? A Yes, sir.

Q With whom? A A conversation with my father.

Q How long did you stay down there at Mr. Newell's office?

A I stayed in the office until about--it must have been about six or seven o'clock.

Q What did you do when you left there? A On Thursday?

Q On Thursday the 26th? A Why, Mr. Newell and my father and myself left the building and went up to the subway station and got in the subway and went up to 96th Street and Broadway. Mr. Newell left us there and stated he was going to meet Mr. Rouss, another attorney, in Savins

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Cafe on the east side of Broadway, and my father and I went to the Unter den Linden, 97th Street and Broadway, and had dinner.

Q Did You subsequently see Newell after dinner?

A Yes, sir.

Q Where? A He said he would come up to the restaurant, and we waited, and he did not come, and we started to walk south, and half way down the block we seen him on the other side of the street, and he came over to us.

Q And did you have further conversations with him then. You met him? A Yes, sir.

Q Did you have a talk with him? A Yes, we were there-- we walked up--we stood at 96th Street and Broadway talking for about three quarters of an hour and the general conversation was between him and my father.

Q Did you hear it? A Yes, sir, I heard part of it.

Q What did you hear--do you recall it? A I just cannot recall the exact conversation.

THE COURT: Give us the substance.

THE WITNESS: Why, it was in general about this here investigation--this case, this trial that was going on.

Q About Fox's case? A Yes, sir, about Fox's case. I cannot recall now the subject of the topic what they spoke of. They sent me over to telephone, to the cigar store at 96th

Street and Broadway, and when I came back they were there and they walked up to about 109th or 108th Street and Broadway, and I left them there.

Q Where did you go that night?

MR. WELLMAN: That is not material, is it?

MR. CLARK: Well, no.

Q When was the next time you saw your father? A The next time I seen him was on--

Q We are speaking now of Thursday night the 26th? A I did not see him again until Saturday night, in Jersey City.

Q You saw him in Jersey City? A Yes, sir.

Q Did you stay over there? A Saturday night?

Q Yes. A Yes, sir--no, not in Jersey City. We went to Newark and stayed there.

Q How long did you stay in Newark? A A couple of days.

Q When did you yourself leave Newark? A I think it was on the 30th of December.

Q Saturday was the 28th. You went over there the 28th. Did you stay over there over Sunday? A What day was New Year's day?

Q On Wednesday. A Yes, sir; we were there Sunday.

Q Were you there in Newark on Monday? A Yes, sir, I was in Newark on Monday.

Q Were you with your father? A Yes, sir.

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Q Were you with him in the afternoon? A Went to the theatre in the afternoon, if I am not mistaken.

Q Do you know detective Conway? A Yes, sir, Johnny Conway.

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

Q Where? A I left the hotel about two o'clock and went over to the moving picture show on Broad Street and came back about four o'clock, and he was sitting in the lobby of the Continental Hotel on Broad Street talking with my father.

Q What did you do then? A I went over and sat alongside of him.

Q After you talked there for a while did you see any one else? A Mr. Newell.

Q Where did you see Mr. Newell? A I think the next time I seen Mr. Newell was in the hotel, if I ain't mistaken.

Q When did you see Newell? A I seen Newell Sunday evening or afternoon.

Q We are speaking about Monday now. You saw Conway?
A I saw Conway. And I saw Newell in Statter's restaurant on Monday night.

Q Was any one else there? A Mr. Newell, my mother, myself, detective Conway and my father.

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Q What did you say to him? A I had a conversation with him to the effect about the paper.

Q What paper? A The paper he had spoken to me about Saturday afternoon when I was in his office.

Q You were in his office Saturday afternoon at 42 Broadway? A Yes, sir. You see this paper came up Friday night. I got a telephone message in the garage about seven or eight o'clock from my father from Jersey City, and he says to me "Mr. Newell has a paper that he wants you to sign". I says "What kind of paper is it?" He says "It is a paper to the effect that you do not know Eugene Fox and have never seen any one give him any money and never gave him any yourself". And I told him I would not sign no paper to that effect. Then Mr. Newell got on the phone and he asked him a few questions in regard to the same thing. I refused positively to sign it. And then my father got on the phone and he said "Mr. Newell don't want you to go home to-night". I says "Why?" He says "Because some subpoena-servers will be there with some papers and you want to keep away from them, and above all don't take no subpoena".

Q And what did you say? A And I says "Where will I go to". He says "You go to the Hotel Braddock". That was in 126th street. And I went there and registered in the hotel under the name of Jack Leiber. And the telephone came

and I went down to the office at 42 Broadway, and he told me about this paper he wanted me to sign--the paper to the effect that I had never paid Fox any money; and I told him I would not sign. And my mother came in, and she looked around that way (indicating) and she told Mr. Newell that I would not sign any paper. And he says "That changes the matter differently". And so the same afternoon I took the machine and went over to Jersey. That was the same paper that he wanted me to sign--he told me about the paper--that he wanted me to sign in Stetter's restaurant on Monday night.

Q You say he again in Newark on Monday night spoke about signing some paper? A Yes, sir.

Q What was that conversation on Monday night at Stetter's restaurant? A It was to the effect that these people would not turn over the money unless I signed the paper.

Q What money?

MR. WELLMAN: Objected to.

Q What was said?

THE COURT: Did you refer to any persons in the conversation; if so, to whom?

Q What is your answer? A Well, he spoke particularly --after we got talking he said "Mr. Hussey"; and he said that he had had Rouss on the phone, and Rouss said above all things not to give the money to him until the son signs that

paper--until I signed that paper. So then they had a little discussion, and Mr. Newell said "I will take it back". And my father says "Go ahead and take it back, I would not take a dollar of your money now, I am going back to the District Attorney's office".

Q Who said that? A My father. And Mr. Newell said "George, don't get hot-headed or do anything you will be sorry for, you just law low and I will get hold of Rouss", he said, "on the phone". So they went out.

Q Did you go out with them? A No.

Q Did you see them again? A Yes, sir, they came back in about an hour.

Q Where were you? A I was still in Stettor's restaurant. They came back in about an hour. And they--it seemed the way I understood Mr. Newell to say what the conversation they had was to the effect that they had tried the telephone, I think, to Rockaway Beach or Rockaway Park somewhere to get hold of Hussey, as they said, and they tried to get hold of Rouss, and nobody seemed to be in--no, they got hold of Rouss, and Rouss was going to get in communication with the bunch--I think that is the way he put it--or somebody. --I forget the exact terms he used--to get in communication with them, and they were to--Newell was to call up Rouss, or Rouss was to call up Newell at 11:30 at the Hotel Con-

tinental that night. We came out, and Mr. Newell says "What are you going to do Howard". I says "Go to a show". He says "I will go with you". So then Mr. Newell changed his mind and said he would go down to see an old client, in his practice he had met some old client who lived in Newark at that time, and he was going to see him. So Mr. Newell went off that way, and I made an appointment to meet at the new Holland House in Market Street, Newark, my father and Mr. Newell at 11:30 or 12:30--after the theatre had got out. So they came back, and we went into a couple of cafes and went down to a cabaret show, and went back to the hotel and registered--we moved from the hotel that night.

Q From what hotel? A From the Continental.

Q You went back there? A No, we moved from there.

You see, my father and Mr. Newell--I left for the theatre about a quarter after eight, and I did not see them again until twelve o'clock.

Q Where were you then? A In front of the New Holland House. We had registered there, and they told me to meet them outside. And we met there about half past twelve.

Q You say you went to a cafe? A We stopped at a couple of cafes, and we finally got into Johnson's on Market Street--a cabaret show.

Q Did you stay there over night? A What--in the

cabaret show?

Q No, in Newark? A We stopped at the hotel--the New Holland Hotel.

Q And when did you return to New York? A From there I come back back to New York with Mr. Groehl.

Q When? A We went from Newark to Asbury Park and from there to Atlantic City, where Mr. Sipp was arrested, and then to Philadelphia, and then came back to New York about the 15th of January.

Q You were with your father from that time on? A Yes, sir, except when he was in jail. I was not in there with him.

Q Where were you stopping at at Atlantic City? A At Atlantic City we went first to the Wilchia Hotel on North Carolina Avenue.

MR. CLARK: That is all.

MR. WELLMAN: No questions.

JAMES FOX, called in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLARK:

Q What is your name? A James Fox.

Q Are you related to Eugene Fox? A A brother.

Q What is your business? A Plasterer.

Q Did you see your brother at any time in this building last December? A On the 27th of September--no, of December, I seen him in this building when he was on trial in the police court.

Q Speak up louder? A I wish to state that I am kind of hearse. On the 27th of December, on a Friday afternoon, I came down to attend the trial in the Police Court before Magistrate Kernechan.

Q And did you see Eugene here? A I seen him in the court.

Q Did you see him before the court began?

MR. WELLMAN: I don't think there will be any contention about these things at all.

THE COURT: If those facts are admitted I think it will greatly simplify matters.

MR. CLARK: May I make a statement?

THE COURT: Yes.

MR. CLARK: It is conceded then that on the afternoon of Friday the 27th of December Eugene Fox had a conversation with James Fox, and that thereafter James Fox drew out of the bank \$250. which he delivered to Eugene Fox at Rouss' office at 99 Nassau Street.

THE WITNESS: I believe it was in the Court House.

MR. CLARK: And that on Monday the 30th of December James Fox again saw Eugene Fox in this building, in the corridor

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outside of the Magistrates Court, and then had a conversation with Eugene Fox in which he was requested to go out and meet Johnny Hartigan outside and go with him to some place where Hartigan could hand to him what Hartigan had, and that they did go out of this building and walk down to a saloon where they both entered the toilet of the saloon, and an envelope was delivered by Hartigan to James Fox, with the direction that he should take the envelope and count it as Captain Walsh had said there was \$950. in it for counsel fees; that he went into a toilet, counted the money, found there was \$950., and then in accordance with the conversation had with Eugene Fox before he left went down to the office of Grant & Rouss where he delivered the \$950. to Eugene Fox.

MR. WELLMAN: We will concede that he will testify to that if questioned.

MR. TALLEY: For the purposes of this trial?

THE COURT: Is it conceded as a fact for the purposes of this trial, or does it go to the effect that the witness will so testify if he was interrogated?

MR. WELLMAN: That he would so testify.

MR. CLARK: Then, that is all.

MR. WELLMAN: That is all. No questions.