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1997

COURT OF GENERAL SESSIONS,

Part IV.

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The People of the State of New
York :
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-----X

-vs-

ANTONIO DE ROSA

B e f o r e :

Hon. Warren W. Foster, and a Jury.

Indictment filed January 4th, 1905.

Indicted for Assault in the First and Second Degrees.

New York, February 21st, 1905.

A p p e a r a n c e s :

For the People, Assistant District Attorney, Isidor
J. Kresel,

For the Defendant, Mr. John Palmieri.

Peter P. McLoughlin,
Official Stenographer.

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DOMENICO ALDERISIO, a witness for the People,
being duly sworn, testified as follows,

DIRECT EXAMINATION BY MR. KRESEL:

Q Where do you live? A 2016 First Avenue, near 107th
Street.

Q What is your business? A Shoemaker.

Q Do you know the defendant? A Yes sir.

Q How long have you known him? A About three months.

Q Do you know what his business is? A Yes sir.

Q What is it? A He carries mortar for the masons.

Q Do you know where the defendant lives? A Yes sir.

Q Where? A I knew that he used to live in the same
house where I was, but I could not say more than that.

Q Do you remember seeing the defendant on the 26th of
December, 1904? A Yes sir.

Q It was the day after Christmas, wasn't it? A Yes
sir.

Q Was the defendant living in the same house where you
are now living at that time? A Yes sir.

Q At what time of the day was it that you saw him on
the 26th of December, 1904? A At eleven o'clock in the
evening.

Q About eleven o'clock at night? A Yes sir.

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Q Where was he? A In that same house.

Q Tell the jury exactly what happened? A At eleven o'clock I was in the apartment of a country woman of mine; I had left the apartment in order to go and let some water, to go to the water closet, and in coming out from the water closet where I had been this man passed me, Antonio De Rosa, and said to me, "Is this the space that you allow for my passing"; I answered to him "Well, there is room to pass for you and for a cart"; I did not say more than that; he stopped, however, and I asked him, "What reason have you to fix me that way, to look at me so fixedly"; and after saying that I was moving away but hardly had I made two steps than he fired three shots from a revolver, one of them hitting me in the arm.

Q Which arm? A In the left arm.

Q Where were you at the time when the shots struck you? A I was face to face with him so far as the positions of the persons is concerned.

Q Were you near the water closet? A In the vicinity of the water closet.

Q How far away from you was the defendant? A About four metres.

How long

Q After you first saw the defendant in the hallway was

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it that he shot at you? A Three minutes.

Q After he shot you in the arm what happened then?

A Then I retired into the house and he fled; I had myself to run to a doctor, crying out that I was killed and he ran away.

Q Where did you go then after the defendant ran away?

A There happened nothing else.

Q Where did you go? A I went to the doctor.

Q What doctor? A He is here; I don't remember his name.

Q Dr. Vecchio? A I don't remember his name.

Q How many times did you go to the doctor? A Three times.

Q What did the doctor do to your arm? A Then I continued to nurse myself, to treat myself.

Q What did the doctor do to your arm? A He medicated it.

THE COURT: What do you mean by that?

THE WITNESS: Well he washed the wound and he applied bandages.

BY MR. KRESEL:

Q Now, when was the next time after this shooting that you saw the defendant? A I saw him in Court and then once

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I went to his house in order to have him arrested.

Q Was that before you saw him in the Police Court?

A Yes sir.

Q How long after the shooting did you go to his house?

A After about one day and a half.

Q Did you find him in the house? A Yes sir.

Q Did you have him arrested then? A Yes sir.

Q Did you ever have any trouble with this defendant before this shooting? A Never.

Q You still live in the house, 2076 First Avenue?

A Yes sir.

Q Does the defendant live there now? A No sir.

MR. PALMIERI: I object to that as immaterial.

THE COURT: We will stop here. We will take a recess.

(The Court admonished the jury and took a recess.)

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AFTER RECESS.

DOMENICO ALDERISIO, a witness for the People,
resumes the stand.

CROSS EXAMINATION BY MR. PALMIERI:

Q What floor do you occupy in that house where you
were shot? A On the second floor.

Q Is that the same floor upon which you were visiting
a friend? A No sir; the floor was below.

Q So that upon that evening you left your apartment
or rooms on the second floor and you descended one flight
of steps and you went down to see your friend who lived on
the floor below, is that correct? A But I had already been
before that in the house of this friend and it was when
coming out of the house of this friend that the occurrence
took place.

Q The occurrence took place on the same floor where
you had visited this friend? A Yes sir; on the same floor.

Q How many people were visiting that friend of yours?
A It was I and another one and we were engaged in a friend-
ly conversation.

Q You had been there for how long before you came out
to go away? A Over two hours.

Q You remember that this was Christmas day, that is,

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Christmas day was on the 25th of December, that being a Sunday, the 26th was also a holiday, you remember that, don't you? A I do not know whether the 26th was a holiday or not.

Q That day you didn't do any work at all, did you?

A I was not at work on that day.

Q During those two hours in your friend's home did you drink anything?

Objected to.

Objection overruled.

A No sir.

Q Before that on that day did you drink anything?

Objected to.

Objection overruled.

A Well, just a couple of glasses with the meals as it is my habit to do.

Q A couple of glasses of red wine or beer? A Beer.

Q You are not married, are you? A No sir.

Q What is the name of this friend you were visiting?

A It was Joseph Fornabaro and he has a wife also.

Q Did you ever visit this defendant at his work?

A Never.

Q Who told you where he worked?

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Objected to.

Q Do you know where this defendant worked if you never visited him at his work? A I didn't say that I knew where he worked.

Q Didn't you say that he is a laborer? A I have been informed what his trade was.

Q What is his trade? A A laborer.

Q How do you know that? A Because I saw him before the occurrence when he was retiring from work, I saw him.

Q How many times did you see him retiring from work? A A couple of times.

Q During all the time that you lived in this house you only saw him a couple of times retiring from work? A Yes sir; I saw him a couple of times and did not pay absolutely great attention to it as he was entirely a foreigner to me, a stranger to me.

Q Up to the day of the shooting this defendant was a perfect stranger to you, wasn't he, up to the moment of the shooting? A Yes sir; of course he was a stranger to me.

Q You judged from the appearance of his clothes, when he came from work, that he was a laborer and that is the only reason that you have for judging of his occupation?

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A Yes sir; from the appearance of his dress.

Q What time did you see him upon those two occasions retiring from work? A I could not exactly state to you just when I saw him retiring.

Q I want to know what time of the day would he come home from work? A About noon time.

Q On the second occasion about what time did you see him? A At the same hour.

Q At the noon hour? A Yes sir; more or less, it was around noon.

Q Don't you know that this defendant never went home for his meals at all? A I do not know whether he went home for his meals or not but the fact is that I saw him coming home at that time.

Q How long before this shooting did you see him for the last time? A I do not know, fifteen or twenty days or thirty days, I was there two months.

Q Upon those two occasions you never spoke to this defendant a word, did you? A No sir.

Q At what part of the building did you see him?
A It was within the house, for instance, I was coming down and he was going upstairs.

Q What is your occupation? A A shoemaker.

Q Do you work as a journeyman shoemaker or have you

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a shop of your own? A I work as a journeyman shoemaker; I have no store of my own, no shop of my own.

Q During the two months that you lived in this house where did you work as a shoemaker? A I worked for some time with my brother.

Q Where? A It was in Brook Avenue, I could not exactly state the number.

Q That is quite some miles away from this house?
A Sure.

Q What were you doing at the noon hour at this house while this defendant was there? A I slept then in that yard because in that house there is another brother of mine living.

Q You slept there? A Yes sir.

Q What were you doing at the noon hour in that house?
A Where in that house?

Q In yourhouse, in the house where you were shot upon the occasion when you saw this defendant? A I was engaged in a friendly conversation.

Q When this defendant was going up upon those two occasions and you coming down no altercation was had between yourself and him? A No sir.

Q You are positive that you never had any fight with

him before this occasion? A I am exactly sure.

Q You caused this man's arrest on the 28th day of December, 1904, did you not? A Yes sir.

Q That is two long days after this occurrence?

A Yes sir.

Q The night that you were shot you only went to a physician, did you? A Yes sir; and also to the police.

Q Did you walk to the doctor's office? A Yes sir, walking.

Q Where is the doctor's office? A On that same, First Avenue.

Q How far away from that house? A I could not say exactly but it seems to me it was some five blocks.

Q You went five blocks to be dressed by this physician on the evening that you were shot before you got an officer? A Yes sir.

Q Is that the officer you got? A It was another one.

Q Didn't you go with that officer two days after this occurrence to this defendant's house and ask his wife where the defendant was and she told you he was working and told you the hour he was coming home? A No sir; I did not go with him.

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Q Don't you know that he went upstairs while you remained outside and he asked for this defendant while he was working, from his wife? A The officer went upstairs but when he went upstairs I do not know what he said or what he did.

Q You did not go up to identify this defendant, did you? A Not with the officer.

Q Then you returned again with that officer, in the evening, when this defendant had come from work back to go to his home again, didn't you? A I never have been with the officer in his house.

Q So that for two long days after this shooting you never took any officer to this house to identify the man whom you claim shot you?

BY THE COURT:

Q When did you take the officer to the house? A The officers went themselves to the partments of this man and I remained in my apartment. Then they called me and I went.

Q When was it that you went there? A When the officer arrested him and brought him downstairs.

BY MR. PALMIERI:

Q How long after the shooting was that? A I told already it was after, one and a half or two days.

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Q This occurrence having occurred at eleven o'clock at night, I now ask you if there was any gas lit in the hallway in which you were shot? A There was an illumination of a lamp --

MR. PALMIERI: I move to strike that out.

THE WITNESS: There was a light coming out from the panes behind which gas was burning of the families and there was plenty of light to see everything.

Q I asked you if there was any gas jet or light lit in the hallway at eleven o'clock that night? A No sir.

Q There was a gas jet there which was turned off, wasn't it, at that time? A Yes sir.

Q The only illumination that furnished you a great deal of light for this identification was the light which came through the fanlight on top of the doors on both ends of the hall? A There was such light that one could very well see even the ground.

THE COURT: Strike that out.

Q (Repeated)? A But there were panes of glass on the doors low so that the light came on the floor.

Q Weren't the fan-lights on top of the doors, yes or no? A No, they were not on the top of the doors. The light came from the doors.

Q The doors were closed or open? A They were closed but they were of glass.

Q The toilet into which you entered and where this occurrence took place was in the middle of the hall? A Yes sir.

Q Was anybody else in company with you that evening in this hallway? A No sir, nobody.

Q The only two persons in the hallway at the time of this occurrence was yourself and the defendant? A Yes sir.

Q When you were shot by the defendant you were walking away out of that hallway, you were walking away, weren't you? A I had just made two steps.

Q Forward? A Yes sir.

Q Then you heard the report of a pistol, is that right, yes or no? A Of course because it was near, from here to there, as it were.

Q You were advancing and you were going away, you were facing the door when you heard the three shots repeatedly, one, two, three, one after the other? A I was facing him; I was facing him and somehow sideways, just with the hand to the door.

Q That is you were facing him and you were not facing him, is that it? A Well suppose he is there and I am

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here at the door, closing the door of the water closet and then I said to him --

Q I want to know the positions? A This is the position (illustrating).

Q The defendant had already passed you? A And looking at him --

Q The defendant had already passed you, didn't he? A He was standing as it were there.

Q Then when you said you advanced two or three or four steps -- when did you advance those two or three or four steps? A Well just in turning the key, in putting the key in the pocket at this time I had made two steps.

Q During all this time you turned the key, you closed the door and you had advanced two steps forward, is that correct, when you heard the report of the pistol? A Yes sir; while talking with him.

Q Were you talking loud? A Not very loud but with a voice that was in a state of excitement.

Q So that it was so loud that the people in the building could hear it, is that correct? A Not so loud.

BY MR. KRESEL:

Q You were asked what you were doing in your house at about noon on the two occasions when you say that you saw

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the defendant coming upstairs. Will you answer that question? A I just came out, was coming out.

Q You were working then for your brother, weren't you - were you working on these days? A No sir; because it is only a short time that I came in this country from Italy.

Q How long have you been in this country? A It is about four months.

Q This defendant was arrested on the 28th of December, is that right? A Yes sir.

Q Immediately after the shooting you said you went to a doctor, is that right? A I reached first my apartment and then I went to the doctor after a few words I exchanged in the house.

Q After you left the doctor where did you go? A I immediately went to the police.

Q On the same evening when this happened? A Yes sir.

Q But the arrest was not made until two days after, is that right? A Yes sir.

BY MR. PALMIERI:

Q Did you go with the police to this defendant's rooms that night?

Objected to.

Objection sustained. Exception.

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Q Do you know that this defendant lives in that house four years with his family of children? A No sir; I did not know that.

Q Do you know that this defendant occupies the top floor of this house? A No sir.

A N S E L M O V E C C H I O, a witness called by and in behalf of the People, being duly sworn, testified as follows,
DIRECT EXAMINATION BY MR. KRESEL:

Q Where do you live? A I live First Avenue, 113th Street on the corner.

Q First Avenue and 113th Street? A Yes sir; 2203.

Q What is your occupation? A Doctor.

Q You are a physician? A Yes sir; a physician.

Q You are duly admitted to practice medicine in this state? A Yes sir.

Q How long have you been a physician? A About fourteen months.

Q Do you know the complaining witness, Alderisio?

A Yes sir.

Q Do you remember seeing him in the month of December, 1904? A Yes sir.

Q What date was it, if you remember? A It was a

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shot wound.

Q What date was it when you saw him first? A I don't understand you.

Q What date was it when you saw him? A About, I think the 27th of December.

Q The 27th? A I don't remember right, but in the night of the 27th or the morning, you know, the morning of the 27th of December.

Q The 27th of December? A Yes sir.

Q Of what year? A Last year.

Q 1904? A Yes sir.

Q Where was it that you saw him? A I was in my drug store, my office.

Q In your office? A Yes sir.

Q First Avenue and 113th Street? A Yes sir.

Q What did you do? A Oh, I saw him because he had a shot wound in the forearm, in the left forearm.

Q He had a shot wound? A Yes sir; in the left forearm.

Q What did you do then? A Well, I seen him; I put on an antiseptic dressing, I washed the wound.

Q You washed the wound and dressed it? A Yes sir.

Q Did you probe for the bullet? A No sir -- I probed and nothing was inside.

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Q You did probe then? A Yes sir.

Q Was the wound a bullet wound? A It was a little wound, you know.

Q A little wound? A Sometimes I speak Italian.

Q (Repeated)? A Yes sir.

Q How many times did you treat him? A Three times, about three times.

Q You dressed his wound every time? A Yes sir.

Q Do you know this defendant? A Yes sir; I know the defendant.

Q Do you know him? A Yes sir.

Q How long have you known De Rosa? A This man here I don't know him.

Q You don't know him? A No sir, I don't know him.

Q Do you know Alderisio? A Yes sir.

Q How long? A About one year but not this Alderisio, I know only the brother.

Q Only since he came to you you know him? A Yes sir; December 27th.

Q Since you treated him? A Yes sir.

CROSS EXAMINATION BY MR. PALMIERI:

Q What time in the morning did this man come to have his wound dressed? A About half past nine.

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Q In the morning? A Yes sir.

Q Was that the first time he came to you? A Yes sir;
the first time.

Q Sure about that? A Yes sir.

Q You cannot be mistaken? A No sir.

Q It was half past nine in the morning of the 27th
when he came up for the first time, is that correct? A I
don't remember rightly if it was between the 26th or 27th.

Q Well, was it? A I don't remember when -- if it was
the 26th or 27th, because I did not leave any certificate,
I don't remember rightly whether it was the 27th or 26th.

Q It was at half past nine in the morning when he
came to you? A Yes sir; in the morning at nine or half
past nine.

Q You cannot be mistaken about the morning? A No
sir.

Q You are positive about that? A Yes sir; positive.

BY MR. KRESEL:

Q Did he come to you the night before? A No sir.

Q Did he come to you at any time during the night?

A Yes sir; he came, he rang my bell but I was asleep and
I didn't see him; he was there, he told me; in the morning
he told me.

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MR. PALMIERI: I move to strike that out as hearsay.

BY THE COURT:

Q You didn't see him when he rang your bell? A No sir.

THE COURT: Strike it out. The jury will disregard any evidence touching the ringing of the bell.

BY MR. KRESEL:

Q You saw him on the 27th in the morning? A Yes sir; I am not sure about that, you know, but in the morning sure.

Q It was in the morning? A Yes sir.

Q That is the first time you treated him was in the morning? A Yes sir.

Q You did not see him the night before? A No sir.

Q Do you know whether he was there the night before?
A Because he told me, the brother of this Mr. Alderisio said to me, told me.

THE COURT: Strike that out.

Q Is that the only way that you know he was there the night before? A The only way.

BY MR. PALMIERI:

Q You did not dress any wound upon that man the night

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before? A No sir.

Q The first time you ever dressed any wound or gave any medical attention to this man was at half past nine on the morning either of the 26th or 27th of December? A Yes sir.

Q Positive about that? A Yes sir; positive.

DOMENICO ALDERISIO, the complainant, recalled.

BY MR. PALMIERI:

Q Is this the doctor that attended your wound for the first time? A Yes sir.

Q Did you hear this doctor's testimony that you went there at half past nine in the morning to have your wound dressed? A I didn't hear him.

BY MR. KRESEL:

Q When you went to the doctor's that night of the shooting did you find the doctor home? A On that night? Directly after the shooting I did not go to this doctor here; we went to another doctor, and the following morning we went to him.

Q Who was the other doctor? A I do not know what his name is.

Q Who went with you? A My brother.

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Q What is his name? A Saverio Alderisio.

Q Is he here? A No sir.

BY MR. PALMIERI:

Q Didn't you say "I went up to Vecchio". Is this Dr. Anselmo Vecchio? A Yes sir.

Q Did you testify as follows before recess "that night I went to Dr. Vecchio's office about half past eleven and he dressed my wound"? A No sir; I said that I had been to the doctor's about five blocks from my house.

Q Then I asked you "Where is Dr. Vecchio's office and you said on First Avenue five blocks away from my residence? A Yes sir; I said that Dr. Vecchio treated my wound.

Q (Repeated)? A Yes sir.

Q Did you not say as follows: "After I left Dr. Vecchio's office then I went to the station house"? A I said that as soon as I left the doctor's he treated me, I went to the police.

Q Was the doctor who treated you an Italian doctor? A Yes sir.

Q How far was he from Dr. Vecchio's office? A They are nearly neighbors.

Q Is it in a drug store or on the First floor? A In a drug store.

Q No ambulance physician treated you? A No sir.

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Q When you went to the station house no ambulance was called for you? A No sir.

Q Who did you speak to at the station house?

Objected to.

Objection sustained.

ANTONIA VIGGIANO, a witness called by and in behalf of the People, being duly sworn, testified as follows,

DIRECT EXAMINATION BY MR. KRESSEL:

Q Where did you live on the 26th of December, 1904?

A No. 2076 First Avenue.

Q Do you remember Christmas day? A I remember Christmas day, also the following day.

Q Do you remember seeing this defendant on the day after Christmas? A Yes sir; not during the day.

Q During the night of that day? A Yes sir; it was when I heard the three reports of a revolver.

Q On what floor of this house are you living? A I lived at the first landing.

Q You mean the second floor -- do you mean one flight up? A Yes sir; at the moment of the shooting I was in my bar-room.

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Q A bar-room? A I have a bar.

Q Do you mean that you have a saloon in the premises?

A Yes sir; a saloon.

Q You were in the bar-room of that saloon on this night, is that right? A Yes sir.

Q When you heard this noise that you described what did you do? A In that moment I was sitting near the stove when I heard the three reports, I opened the door and looked at it and I saw the defendant passing.

Q Which way was he passing, upstairs or downstairs?

A Downstairs; he was going out of the building.

Q Out of the building? A Yes sir.

Q What did you do then? A I closed the door and retired again inside.

Q Just how was the defendant dressed when you saw him going out of the building? A He had on his coat and I didn't pay much attention about his garments but I recognized him on opening the door from the light that streamed into the man's face. I recognized him by his face.

Q Did he have an overcoat on? A Yes sir; he had a coat, that is such a coat as is worn in the Winter time, but I didn't pay much attention as to how he was dressed; I saw his face.

Q How soon after you heard these shots did you see

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the defendant? A Well no time, just a few seconds, just the time of the motion.

Q Do you know Domenico Alderisio? A Yes sir.

Q Did you see him that night? A No sir; I saw him when he went to the doctor and he had a wound on his arm.

Q How soon after you saw the defendant passing through the hallway did you see Alderisio with the wound in his arm?

A About some ten minutes, maybe fifteen minutes.

CROSS EXAMINATION BY MR. PAIMIARI:

Q Does this defendant ever come to your bar-room?

A Sometimes he came, sometimes he did not.

Q When was the last time he drank with you?

Objected to.

Q When was the last time you saw him in your bar-room?

A A long time.

Q How long? A I don't know. I don't pay much attention to the people who come in and go out from my bar-room.

Q Didn't you see him a year and a half? A I was not permanently inside the bar-room.

Q Didn't you say a year and a half about that you don't see him? A Yes sir one year or one year and a half he didn't come in my bar.

Q Do you know the reason why he didn't come to your

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bar-room? A Because he didn't like to come probably.

Q Now, you saw this defendant sideways, didn't you, as he was running out of the hallway? A As soon as I opened the door of the hall I saw his face.

Q Then what did you say to him, anything? A I did not say anything to him.

Q Did you ask him what is the matter or what is the trouble? A No sir.

Q Did you see a pistol in his hand? A No sir; I saw simply that he had his hand in his pocket; I can't say what, I didn't see, upon my conscience.

Q What did you do after that? A I re-entered the bar-room and stayed there.

Q The only light that was in the hallway was furnished by the room door when you opened the door, wasn't it?

A When I opened the door the light came out from my door.

Q Was that the only light? A There was only one person with me in the bar-room.

Q Was that the only light which furnished light into the hallway through which you claim this defendant went out? A There is nobody else living in that hallway except that the bar is there and the door is on the hall.

Q I asked you was there any gas lit in the hallway outside of your own light to furnish light in the hall when

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this defendant was running out? A No sir; only the light in the bar.

Q What time are the lights turned out in the hallway?

A Ten o'clock.

Q So that the hallway was perfectly dark outside of the only light which was furnished into the hallway by your own door? A Yes sir.

Q With whom did you speak about this case for the first time? A I spoke in the presence of Alderisio and other people that had come up in that moment after the occurrence.

Q When was the first time you spoke about this case?

Objected to.

Objection sustained.

Q You spoke about it to Alderisio when he came down, did you? A When Alderisio came back from the doctor he expressed --

THE COURT: Answer the question yes or no.

THE WITNESS: With him and with all the other people that were in the house.

Q Then you told Alderisio who it was that shot him, didn't you? A I didn't say that I had seen the man who shot him, I simply said to him that I had seen this defendant passing by after the shooting.

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F R A N K G E N T I L E, a witness called by and in behalf of the People, being duly sworn, testified as follows,

DIRECT EXAMINATION BY MR. KRESEL:

Q Where do you live? A 2076 First Avenue.

Q Is that the same place where Domenico Alderisio lives? A I am on the floor above.

Q Is that the same place where Mrs. Viggiano lives?

A Yes sir.

Q Do you remember being in Mrs. Viggiano's saloon on the night of the 26th of December, 1904? A Yes sir.

Q Now, tell us what you know about this case? A I was in the saloon because it was cold outside.

Q Who else was in there? A I and Mrs. Viggiano.

Q Then what happened? A Whilst sitting near the stove in order to get warm we heard three reports from a revolver.

Q From a revolver? A Yes sir.

Q Then what did you do? A We then came, went to the door in order to know what has happened.

Q Did you open the door? A Yes sir.

Q Did you see anybody? A I saw Antonio passing by, without, however, noting anything about what had happened.

Q Who do you mean by Antonio? A That gentleman

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there, (indicating the defendant).

Q How was a he dressed? A With a white coat.

Q Do you mean an overcoat? A It was not exactly white, it was whitish.

Q Light? A Yes sir.

Q You mean a light coat? A Yes sir.

Q Did you say anything to him? A No sir.

Q Did you see Alderisio on that night? A No sir.

Q Did you see him that night (pointing to Alderisio)?

A No sir.

Q You did not see him? A No sir; I saw him when he left to go to the doctor.

Q So you did see him? A Yes sir; I saw him that he went down to go to the doctor's but I did not know what was the matter.

Q Did you see his arm? A No sir.

Q You say he started off for the doctor, do you know what the trouble was?

Objected to.

A I had heard that he had been shot.

MR. PALMIERI: I move to strike that out.

MR. KRESEL: I consent to that.

Q Did you see his bare arm so that you could tell what the trouble was? A No sir.

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CROSS EXAMINATION BY MR. PALMIERI:

Q Are you sure that this defendant had a white overcoat on, or a grayish overcoat? A I saw him passing by as any other time with a light coat, a light colored coat.

Q Don't you know that the only overcoat this defendant ever had is the one he has on now? A No sir.

Q Now, who opened the door, the boss of this saloon or you? A The lady.

Q Then she was in front of you when she opened the door? A She was by my side.

Q Did the defendant walk by -- how did the defendant go by? A Placid, pacific, just as any other time.

Q What do you mean by pacific? A Just in that same way as he is used to pass by and just in the same way as any other person is used to walk.

Q You did not testify before in this case in the Harlem Police Court? A No sir.

Q You only talked it over with the private counsel in this case to-day, didn't you? A No sir.

Q Didn't you talk with this lawyer back in the court room now? A No sir; this gentleman with the reddish face had simply inquired about the doctor where he had been.

Q Did you see any police there that night? A There

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were two police officers there.

Q Did you go upstairs with those police officers to identify this defendant? A No sir.

Q Did you see where the policemen went to look for this man? A I do not know.

Q Did you tell the policemen that you saw a man do the shooting and that you saw a man walking out? A No sir.

Q Did you talk with the police at all? A No sir.

BY MR. KRESEL:

Q Who went to the doctor? A Peter Alderisio and his brother.

P E T E R A L D E R I S I O, a witness called by and in behalf of the People, being duly sworn, testified as follows,

DIRECT EXAMINATION BY MR. KRESEL:

Q Where do you live? A 2076 First Avenue.

Q What is your business? A Carpenter.

Q Are you related to the complaining witness, Domenico Alderisio? A Yes sir.

Q What is your relationship to him? A We are the sons of brother and brother.

Q In other words you are cousins? A Yes sir.

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Q Tell us what you know about this case?

Objected to.

Question withdrawn.

Q On the night of the 26th of December, 1904, did you see your cousin, Domenico Alderisio? A No sir; I saw him during the day.

Q Did you see him during the evening of that day?

A I saw him about during the daytime and I did not see him at night.

Q Do you remember seeing the defendant on that day?

A In the evening.

Q About what time in the evening did you see him?

A Eleven o'clock more or less.

Q Where did you see him then? A I saw him while I was above the stairs where below he had fired the shots.

Q You were on the floor above, were you? A Yes sir.

Q When you heard the shots fired what did you do?

A I was there just in that moment when I had retired home; I heard the three shots and then (stretching his head and indicating) I saw he was flying away.

Q Who do you mean was flying away? A De Rosa (indicating the defendant.)

Q Did you then go down to the floor below? A I went;

being scared, I entered my apartment and closed the door with a key.

Q Did you know that he had shot your cousin? A No sir.

CROSS EXAMINATION BY MR. PALMIERI:

Q You did not get the police or anything that night, did you? A Nothing; I entered my apartment and after that night I knew what had happened.

Q That was in the morning? A Yes sir; in the morning.

Q In the morning who told you? A All the people that were gathered around there in the house.

Q They all told you that this defendant did the shooting? A No sir; it was told me that my cousin had been shot.

Q You took your cousin to the doctor, didn't you? A Yes sir.

Q That was in the morning that you took him to the doctor? A Yes sir.

Q Now, as you were coming up didn't you see your cousin trying to lock the door of the toilet and arguing with this defendant? A No sir.

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Q What doctor did you take your cousin to in the morning? A Dr. Vecchio.

Q That was the doctor that testified upon the stand? A Yes sir exactly.

Q And after that you went to the station house? A No sir; I went to work.

Q How long does it take you to climb the flight of stairs? A Three or four minutes.

Q You saw this defendant flying away, didn't you, when you looked down? AA Yes sir.

Q Now, did you hear the previous witness say that he saw a person coming down walking liesurely, placidly and pacifically? A No; I did not hear.

Q You say that he was running as fast as he could, didn't you? A Well, not too quick, but he was running down the stairs speedily.

Q How was he dressed? A Well, so far as I could notice with the light that was there coming out from where the undertaker is, his coat was something of a grayish light.

Q That was the only light that aided you in identifying the person who did the shooting? A Yes sir; that where the undertaker is because there is a big pane of glass.

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Q When you went up the flight of stairs it was just as you reached the top of the stairs that you heard three shots fired consecutively, did you not? A (No answer.)

Q You went up a flight of stairs, you passed by, you saw nothing, you saw no ^{man} talking, or any person there, you went up another flight of stairs and as soon as you reached that flight you heard three shots, is that right? A Exactly so.

Q As you went up the second flight, before the shooting, did you hear any talk? A After?

Q (Repeated)? A After the shooting I leaned immediately over the banister.

Q Before the shooting did you hear any talk? A No sir; nothing at all.

Q Did you tell the police who it was that did the shooting?

MR. KRESEL: I object to that question. He has already asked it.

MR. PALMIERI: Not of this witness.

A I didn't say anything to the police, to nobody, nothing, not to my wife.

Q When did you speak for the first time about this case? A I was taken to Court.

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BY MR. KRESEL:

Q The first time you knew about the shooting, as to who was shot, was the following morning, wasn't it? A When I knew that he was wounded, but in the evening I did not know anything.

Q You didn't go with your husband to the doctor the night of the shooting, did you? A No sir; I didn't go to nowhere; I didn't go out of my house for fear.

Q You don't know whether your cousin went to another doctor that night or not, do you?

MR. PALMIERI: I object to that because he claims he went to this doctor on that night.

Objection overruled. Exception.

A I heard it that he was to a doctor's in the morning.

MR. PALMIERI: I move to strike that out.

THE COURT: Strike it out.

MR. PALMIERI: I ask your Honor to instruct the jury to disregard that statement as hearsay evidence.

THE COURT: Yes.

Q You don't know whether your cousin went with his brother to another doctor the night before, do you? A No sir; I do not know; I knew it in the morning.

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Q Now, on what floor was it that you were when you heard the shooting? A For instance the ground floor, the second floor, the third floor.

Q You mean two flights up? A I think that is the expression to be used.

Q You mean two flights up, do you? A Yes, two flights.

Q Now, you say that you saw the defendant running away as you were looking from the third floor, do you know whether he was running or walking on the ground floor?

A I only can say so far as the turning of the flight of stairs is concerned.

Q Mrs. Viggiano says that he was walking out as she saw him on the ground floor, do you know anything as to what he did on the ground floor? A I do not know what happened in that moment when the lady saw him; I was not interested to know.

BY MR. PALMIERI:

Q But you are sure that he had on a white or a grayish overcoat? A Well, it was a mixed color.

Q It was not this coat, was it? A He has another one.

Q Where is that other one? A I do not know where; I saw him with his coat on several times.

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Q You were friendly with him, weren't you? A Yes sir.

Q very friendly, aren't you? A No sir.

Q How long is it since you have talked? A Well, we are not exactly speaking together, but it is a long time that I saw him.

Q Do you know the coats of all the tenants in the building?

Objected to.

THE COURT: He may answer.

A Well, there is some one who wears one kind of a coat and others who wear other kinds of coats.

Q How many families in that house? A There are several men there who once dress in one way and another time dress in another way.

Q That is this defendant, the man that dresses at one time in one way and at another time in another way, is this defendant? A Yes sir, I saw it.

MR. KRESEL: Now, if your Honor please, I do not desire to close the case for the people at present because I want to get here the doctor who treated this complainant on the night of the shooting. He is at 114th Street and First Avenue and I don't believe we can get him down here in time.

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THE COURT: How many witnesses have you for the defense?

MR. PALMIERI: I expect to have at least three or four.

THE COURT: We could not finish the case today. There is nothing to do but to adjourn.

(The Court then admonished the jury, calling their attention to Section 415 of the Code of Criminal Procedure, and adjourned the further trial of this case until Thursday morning, February 23rd, 1905, at 10:30 o'clock.)

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February 23, 1905.

TRIAL RESUMED.

ENRICO TROTTA, a witness called on behalf of the people, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. KRESEL:

Q Where do you live? A 116th street.

Q 116th street, what number? A 336.

Q East or West? A East.

Q What is your business? A I am a doctor.

Q You are a physician? A Yes, sir.

Q Where is your office? A My office is in a drugstore

Q In a drugstore, where? A In Second avenue on the corner of 114th street.

Q Is that right? A Yes, sir.

Q Second avenue corner of 114th street? A Yes, sir.

Q Now, do you own that drugstore?

MR. PALMIERI: Objected to, as immaterial,
your Honor.

A It is my own; yes, sir.

THE COURT: I will sustain that objection.

Q On the 26th of December, 1904, did you have your office in that drugstore? A Yes, sir.

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Q That is the day after Christmas, do you remember that?

A Well, I don't remember it.

Q But you were in business at that time? A Yes, sir.

Q Do you remember seeing that man on the 26th of December (pointing to the complaining witness Alderisio)?

A Yes, sir, he has come after ten o'clock-- I don't remember after ten o'clock.

Q In the evening? A Yes, sir, in the evening.

Q He came there in the evening? A Yes, sir.

Q Did he come alone? A No, sir, lots of people with him.

Q Some other people with him? A Yes, sir.

Q Did you notice his arm? A Yes, sir; he showed me his arm.

Q What did you notice about it? A Two holes in this arm in the skin.

Q A wound? A Yes, sir.

Q What did you do with him? A Well, I washed it, and I put a dressing on it, antiseptic, that is all.

Q You washed it and dressed it? A Yes, sir.

Q Is that right? A Yes, sir.

Q Now, do you remember exactly what day that was?

A No, sir, what day I don't remember.

Q Was it in December? A Yes, sir, in December.

Q Was it after Christmas? A After Christmas; yes, sir, in the night time; that I remember well.

Q You remember that? A Yes, sir.

Q Was he there more than once or only once? A No, sir, only once.

Q Only once? A Yes, sir.

CROSS-EXAMINATION BY MR. PALMIERI:

Q Doctor, just show the jury where that wound was on the arm? A In the elbow here, but I don't remember whether the right or the left.

Q It was on the elbow, but you don't remember whether it was on the left arm or the right arm? A Yes, sir.

Q But you don't remember the location of the skin wound? A Yes, sir.

Q Show the jury where it was? A It was on the skin here (indicating the back of the arm just at the elbow).

QC Right there (illustrating)? A Yes, sir.

Q That was the point, that was where the wound existed which you washed? A Yes, sir, the two wounds.

Q Two? A Yes, sir; they were skin wounds.

Q Just skin wounds? A Skin, yes, sir.

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Q Why do you call that a skin wound? A Because there was a hole.

Q In the skin? A Yes, sir.

Q There was a hole? A Yes, sir, a perforation there.

Q That perforated the skin? A Yes, sir; two perforations.

Q And the bone? A No, sir, only the skin; the articulation was saved.

Q When you say articulation, do you mean the muscles?
A No, sir; the muscles move the arm, the muscles give the strength.

Q The muscles give strength to the arms? A To the movements. Excuse my English.

Q And the hole went as far as the skin, is that right?
A Yes, sir.

Q As far as the bone? A No, sir, only the skin.

Q Only the skin? A Yes, sir.

Q But you are positive the point of entrance of that hole was at the place which you now indicate, just back of the arm at the elbow? A Yes, sir.

Q Quite a crowd of people came along with the complainant, the man who was shot? A Yes, sir.

Q There were many people there? A Yes, sir.

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Q Now, doctor, you didn't prove for any bullet because there was none? A No, sir, no bullet.

Q You didn't see any bullets? A No, sir, only two holes that is all.

Q All you did was to wash it with antiseptics? A Yes, sir.

Q You didn't put any stitches in it? A No, sir, there was none necessary? A After the washing was done you dressed it? A Yes, sir, with a bandage and some gauze, that is all.

Q It is needless to say that the complainant didn't have to be carried, the patient was not carried to you?

A No, sir.

Q He walked,? A Yes, sir.

Q And talked? A Yes, sir.

BY MR. KRESSEL:

Q You say there was a double perforation, what do you mean by that? A Two holes in the skin, one small, one big, and one smaller, unequal.

Q They were not equal? A No, sir, very little difference.

(Mr. Kressel to the complaining witness:)

Just let us see your arm, show the jury where the

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wound was? (The complaining witness exhibits his arm to the jury.)

BY MR. PALMIERI:

Q How far was the other hole from the first hole in the skin? A About one and a half inches from each other

Q From each other? A Yes, sir.

Q All behind the elbow at the place indicated? A Yes, sir.

Q That is, one was about one and a half inches away from the other? A Yes, sir.

Q They were skin wounds, not to the bone? A Yes, sir, only the skin that is all.

BY THE FOREMAN:

Q (After examining the arm of the complaining witness) The bullet went in here and came out there (indicating)?

A Yes, sir.

BY MR. PALMIERI:

Q Doctor, were there any powder marks on that arm?

A No, sir.

Q Sure about that? A Yes, sir.

Q There were no powder marks on that arm? A I am sure of that.

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Q If there were, you would have remember them?

A I told you it is impossible, because he was dressed, and the powder would get on the clothes.

Q Did you see any powder marks on the coat? A No, sir.

Q Or any burnt marks (No answer.)

Q Is that the coat that the complainant wore (pointing to the coat worn by the complaining witness)? A I don't remember now.

SAVERIO ALDERISIO, a witness called on behalf of the people, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. KRESEL:

MR. PALMIERI: If what you want to prove by this witness is that he went with his brother to the doctor, I will concede that he will testify to that fact.

MR. KRESEL: There is something else I want to ask him.

Q Where do you live? A 2076 First avenue.

Q Are you related to Domenico Alderisio? A I am his brother.

Q Does he live in your house? A Yes, sir.

Q What is your business? A Tailor.

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Q Do you remember the day after Christmas, last year?

A Yes, sir.

Q Did you see your brother Domenico on that day?

A Yes, sir.

Q Do you know the defendant? A Yes, sir.

Q Did you see him on the night of the 26th of December, 1904? A I didn't see him.

Q Do you remember going anywhere with your brother on that night? A Yes, sir, I remember that I went with him to a doctor after he was wounded.

Q Did you see the occurrence, the wounding? A No, sir; I didn't see it.

Q When you first saw your brother what was the condition of his arm? A I don't speak very good English. I was at a meeting; there was a meeting of the association, and I was inside on the ground floor, in the hall on the ground floor, whilst we had our meeting, and I heard three reports of a pistol; we were about thirty or forty persons united there, and we didn't pay attention; we thought it was some outside affair, it wasn't any of us.

Q When you came out, you saw your brother? A I went out in about four or five minutes after I heard the three shots, about five minutes afterwards, and in came the brother

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in law of this accused, and he said to me.

(Stricken out.)

Q You came out, did you see your brother? A Yes, sir; then I saw on the first floor, I saw my brother; he was wounded and I took him and I went to a doctor with him.

Q What doctor did you go to? A I went to Doctor Veschio, but it was closed, and then I went to Doctor Trotta; I went into the drugstore; he keeps a drugstore there.

Q After going to the drugstore, where else did you go with your brother? A I went then to the station house with my brother.

Q What station house? A 104th Street.

Q The 104th Street Station House? A Yes, sir.

Q You went there the same night? A Yes, sir; immediately when he came out of the drugstore I went to the station house.

CROSS-EXAMINATION BY MR. PALMIERI:

Q I only ask you one question. This society meets in the same barroom of this woman that testified? (No answer.)

Q Where does your society meet? A Well, there is a meeting hall connected with the saloon, the saloon is in one part and the meeting hall is in the rear.

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Q The meeting hall belongs to the same saloon, does it not, it is a continuation of the same saloon, and you frequent that bar at those meetings, don't you.

Objected to. Objection sustained. Exception.

Q Do you know the woman who keeps the bar? A Yes, sir.

Q How long have you known her? A About eight or nine years.

Q About eight or nine years? A Yes, sir, I have known her about eight or nine years.

Q You are quite friendly with her, aren't you?

A I am a good friend to all of them.

LOUIS STANCREDI, a witness called on behalf of the people, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. KRESSEL:

Q You are attached to what precinct? A The 29th.

Q Is that the 104th street police station? A Yes, sir.

Q Were you attached to that precinct on the 26th day of December, 1904? A Yes, sir.

Q On the night of the 26th of December, 1904, did you see the complaining witness in this case, Domenico Alderisio?

A Yes, sir.

Q Where did you see him then? A He came to the station house.

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house that night.

Q What happened there? A He came to the station house and said he was shot about 11 o'clock while he was going to the toilet, that somebody shot him in the arm.

BY THE COURT:

Q Did you say that he said this to you? A Yes, sir.

Q The defendant was not with him, was he? A No, sir.

MR. PALMIERI: I did not object to it.

THE COURT: It is not competent; we will strike it out.

Q He made a complaint? A Yes, sir, he made a complaint

CROSS-EXAMINATION BY MR. PALMIERI:

Q When he made a complaint, he did not make a complaint against anybody, except he said somebody shot him?

Objected to.

Objection overruled.

Q Yes, or no? A Yes, sir.

Q You didn't arrest this defendant, did you, officer?

A No, sir.

Q What other officer arrested him? A Officer Mangione.

Q Is he in court? A Yes, sir.

BY MR. KRESSEL:

Q Did you go to the house where the defendant lived?

A Yes, sir; we couldn't get any answer; we couldn't get no

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entrance.

Q You couldn't gain any entrance in the house, it was closed? A Well, the rooms were closed.

Q Whose rooms? A The defendant's.

Q So, you did go to the defendant's house? A Yes, sir.

Q That very night? A Yes, sir.

Q With the complainant? A Yes, sir, with the complainant.

Q Did the complainant go right to the door with you?

A No, sir, I went up alone.

Q You went up alone? A Yes, sir.

Q He told you where to go? A Yes, sir.

Q So, he did make a complaint against this defendant?

✓ A He says, "He lives upstairs on the top floor."

BY MR. PALMIERI:

Q You know that when a felony is committed that you have a right to go and apprehend a man wherever you believe he is living?

Objected to. Objection sustained. Exception.

Q Did you break into this man's door? A No, sir.

Q When you say you couldn't gain any entrance, what do you mean, did you try to get in? A He didn't know exactly what part of the floor this party lived on.

Q Who? A He says he knew him only by sight.

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Q So you simply knocked at the door? A Yes, sir.

Q You didn't holler? A No, sir.

Q You didn't call him by name? A No, sir.

Q You didn't shout? A No, sir.

Q For all you know the people might have been sleeping?

A I believe so.

Q When you knocked at the door, ^{and} you got no response what was your belief as to the people inside there?

Objected to. Objection sustained. Exception.

BY THE COURT:

Q What did you see-- did you observe anything? A No, sir, everything was quiet.

Q It was dark, wasn't it? A Yes, sir.

Q Dark and all was quiet? A Yes, sir.

BY MR. PALMIERI:

Q When you went through that hallway, I ask you if the lights in that hallway were lit or not? A No, sir, they were out.

Q When you went through these hallways, were they dark or light? A I lighted them myself. I lighted the light going upstairs.

Q You had to light the light? A Yes, sir.

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Q Couldn't you go up without lighting the light? A
Too dark. This is a six story building.

Q Is that the condition of that place every night,
too dark?

Objected to. Objection sustained.

Q Was that the condition of the floors there upon that
night, of the hallway? A The lights were out. I left them
lit when I went away.

Q You had to light the light in order to get light to
go upstairs? A Yes, sir.

Q I believe you made a complaint to the landlord about
this matter, didn't you, for not lighting the hallway at
night? A Yes, sir.

BY MR. KRESSEL:

Q About what time did you go there? A About half-
past twelve or twenty minutes to one.

Q Twenty minutes to one in the morning? A Yes, sir.

Q You don't know how light these hallways might have
been at 11 o'clock? A No, sir.

Q You didn't know the name of this defendant at the
time? A No, sir.

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Q The complainant didn't tell you the name? A No, sir.

Q He said he knew him by sight? A That is all.

BY MR. PALMIERI:

Q When did you return there again, officer? A The same day.

Q What time? A Well, in the morning about ten o'clock

Q Where did you go? A In the house to get some information as to who the party was.

Q You went there to get some information? A Yes, sir.

Q As to who did the shooting? A Yes, sir.

Q You didn't know who had done the shooting before that time, did you?

Objected to. Objection sustained. Exception.

Q Did you go to this defendant's apartments in the morning at ten o'clock? A Yes, sir.

Q Did you go to his apartments at any other time after that night? A Two nights after.

Q Two nights after? A Yes, sir.

Q That was the night of his arrest? A Yes, sir.

Q How many officers were there? A Two.

Q Two? A Yes, sir.

Q What time did you get to his rooms? A Half past nine.

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Q Can you give any reason to this jury why you didn't
return to this defendant's rooms the following day?

Objected to. Objection sustained. Exception.

Q Well, the fact remains that you-- although you were
on the top floor that night, the night of the shooting-- you
didn't return to that top floor for two days afterwards.

Objected to. Objection sustained. Exception.

Q Is that true or not true-- is that the fact or not
the fact?

Objected to. Objection sustained. Exception.

Q Officer, from the night that you called upon this
defendant, that is from the night that you went up to the
top floor of the apartments where this shooting occurred,
you returned there when?

Objected to. Objection sustained. Exception.

Q Where was this defendant when you arrested him? A In
bed.

Q With whom? A With his wife.

Q Who else? A Children.

Q Did you make a search of his rooms? A No, sir.

Q You didn't search for anything? A No, sir.

Q Can you give any reason why you didn't search for
anything?

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Objected to. Objection sustained. Exception.

MR. KRESSEL: The People rest.

MR. PALMIERI: Now, your Honor, I ask that your Honor take from the consideration of the jury the count of the indictment charging assault in the first degree.

THE COURT: I will deny your motion at this time with leave to renew it.

Exception.

Mr. Palmieri opened the case on behalf of the defendant as follows:

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D E F E N C E .

A N N I E D E R O S A, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PALMIERI:

Q Are you the wife of the defendant? A Yes, sir.

Q You live on the top floor of what house?

A I don't recollect the number, on First avenue, I don't recollect the number.

Q 2076 First avenue? A Yes, sir.

Q 2076? A Yes, sir.

Q How long have you been living there with your husband and children? A About four or five years.

Q Do you remember the night of the 26th of December, 1904? A Yes, sir.

Q Did you hear any shooting in that building upon that night? A No, sir; I didn't hear any.

Q On the morning of the 26th of December where did you go with your husband?

Objected to. Objection overruled.

A At half-past ten in the morning we went to mass in the church.

Q When you say "we" you mean who? A I mean I, my husband and two children.

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Q How long did you remain in church? A Till eleven o'clock.

Q After that where did you go with your husband and the children? A Then we went home.

Q To the same home in which you lived? A Yes, sir, to the floor where we lived.

Q When you went to the top floor what did you do with your husband? A Then we had something to eat.

Q What time did you get through eating? A Half-past twelve.

Q After that where did you husband go and what did he do? A He went out and came back about six o'clock in the evening.

Q When he came back, what did you do? A Well, he played with the children and then we had something to eat.

Q What time did you retire, that is what time did you go to bed with your husband? A About nine or half-past nine

Q After you went to bed did you hear any pistol shots?
A No, sir.

Q Did you hear any knocking at the door by anybody?
A No, sir.

Q When did you first hear of any shooting having occurred in that house? A In about two days.

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Q Was that the time that the brother of the complainant-- did you see the brother of this complainant in your rooms two days after this alleged shooting, and if so what he said to you-- you can answer that by yes or no?

BY THE COURT:

Q Yes, he can. Did he talk to you; yes or no? A Yes, sir, he talked to me and wanted to see my husband.

BY MR. PALMIERI:

Q I wish you to state all the conversation you had with this complainant's brother on the morning that he called, two days after this alleged shooting.

Objected to. Objection sustained. Exception.

Q After this talk, what time did your husband come home?

A About two or three o'clock-- on the evening the brother came to see me my husband came home about half-past four or five o'clock.

Q Did you talk with your husband as to what had been said to you by the complainant's brother? A Yes, sir, but only a few words.

Q You can't state the conversation had with him. A No conversation; I only said that he was here.

Q Then your husband had supper? A Yes, sir.

Q Then, what time did you go to bed, two nights after

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this alleged occurrence? A Half-past eight we went to bed.

Q What time did the police come to your door? A About half-past nine or ten o'clock when the police came.

Q Where was your husband then? A He was in bed with me.

Q What did the police say to you when they came to the door? A Well, they knocked on the door and my husband opened the door.

Q What did the police say? A They told him to dress and come with them.

Q What did your husband do? A Then he put his coat on and went with the police.

Q Was this the coat that he put on (indicating)?

A Yes, sir, that is his.

Q Did your husband ever have any other coat but this black coat? A No, sir; that is the one he had; nothing else.

Q Have you any other coats belonging to your husband at your house, or did you have any other coats belonging to your husband at your house that night? A No, sir; that is the only one he had.

Q From the morning of the 27th of December, all day of that day, and also the day of the 28th, did your husband work or was he at home? A He went to work.

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Q Did he come home at regular hours, did he used to come home before this alleged shooting? A Yes, sir, always.

Q So that your husband went to work on the 27th and the 28th and he was home the night of the 27th and also part of the night of the 28th and all night on the 26th of December

A Yes, sir, the 26th was a holiday.

Q Did your husband before this 26th day of December, 1904, ever come home to dinner at twelve o'clock from work to lunch? A No, sir, only in the evening.

Q How about his lunch in the morning? A Before going to work he eats his breakfast.

Q Would he take any lunch; did he bring something to eat with him? A He would take some money with him to buy food outside for lunch.

CROSS-EXAMINATION BY MR. KRESEL:

Q What church did you go to on the 26th of December, 1904? A In 112th street.

Q What avenue? A I don't recollect.

Q How long have you been married to the defendant?
A twelve years.

Q Where are you living now? A Second avenue, in the cross street near second avenue, I don't know the number.

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Q You say that you lived in the house on First avenue for about four or five years, is that right? A Yes, sir.

Q What number is it on First avenue? A I don't know.

Q Do you remember the night of the 26th of December?

A Yes, sir.

Q Do you remember it very well? A Yes, sir.

Q What is there about that night that should leave it so fresh in your mind? A It was a holiday.

Q The day before that was a holiday, too, wasn't it?

A Yes, sir, it was. Christmas Day he didn't work.

Q Did you go to church on that day? A Yes, sir, we went on Sunday.

Q You went to mass on that day? A Yes, sir.

Q You had your supper on that day? A Yes, sir.

Q You went to bed with your husband on that night didn't you? A Yes, sir.

Q Now, those are the occurrences that you have mentioned of the 26th of December, you did the something on the 25th? A Yes, sir.

Q What is there about the 26th that makes you remember it so well? I recollect that it was on a Monday.

Q The day before was Sunday, wasn't it? A Yes, sir.

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Q And that was a holiday? A Yes, sir.

Q What time did you go to bed on the 26th? A About nine or half-past nine.

Q You didn't hear any shooting? A No, sir.

Q You went right to sleep, didn't you? A Yes, sir.

Q At eleven o'clock you were asleep? A Yes, sir.

We live on the top floor and we don't hear noise.

Q You say that you didn't hear any noise of knocking on your door on that night, did you? A No, sir.

Q The officer says that he came to your door and he knocked on your door? A I didn't hear any.

Q You didn't hear any? A No, sir.

Q But you heard a knock or noise after that, didn't you? A Yes, sir.

Q On that night you went to bed at what hour? A Half-past eight.

Q The police came at what time? A About half-past nine or ten o'clock.

Q You heard a knock on that night? A Yes, sir; they knocked very hard.

Q They knocked very hard? A Yes, sir.

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Q You say that all the officer said was, "dress and come along with us," is that right? A Yes, sir; that is what I understood.

Q You stood right at the door, didn't you? A I remained in bed, my husband went to the door.

Q Did you hear your husband say anything? A He didn't say anything.

Q He didn't say anything? A No, sir.

Q Just dressed himself and went with the officer, did he? A Yes, sir.

Q Did you go with the officer, too? A I remained at home; I remained in bed at the house.

Q You said to your counsel that your husband never came home for his lunch, is that right? A He doesn't come at noontime.

Q You have been married twelve years, you say?
A Eleven years.

Q And you swear that in the eleven years that you have been living with this defendant he has never been home to his lunch, is that right? A When he was out of work, when he didn't work, then he had his lunch home. Then when he worked he never came home.

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Q He has been out of work during those eleven years, hasn't he? A When the weather is not favorable, then he does not work.

Q When it is bad weather, then he does not work?

A Yes, sir.

Q He does not work on Sundays or holidays? A When he had work he worked sometimes even on holidays, when he had work.

Q Do you know that man Saverio Alderisio? A No, sir; he lives in the same house, but I don't know him.

Q Have you seen him before this morning? A I saw his wife.

Q Have you never seen that man before this morning?

A I have not, sir.

Q Is that the man who called at your house? A No, sir.

Q Who is the man that called at your house; what is his name? A The man who is coming now, the man who just moved over.

Q Is that the man (indicating)? A Yes, sir.

Q That is the man that called at your house? A Yes, sir. (Referring to the witness Domenico Alderisio.)

Q Do you remember when he came to your house? A Yes, sir.

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Q What day was it? A The day after it happened.

Q You mean then on the 27th? A Yes, sir.

Q That was on the same day that your husband was arrested? A No, sir, he was arrested the next day.

Q So, then, your husband was arrested the day after he came to your house, is that right? A Yes, sir.

Q Your husband was arrested on the night of the 28th of December, was he not? A Yes, sir.

Q Alderisio came to your house in the morning, or in the evening of the 27th? A About half-past twelve.

Q Half-past twelve? A He came twice to my house.

Q When did he come the second time? A He came about half past two or three o'clock.

Q Of what day? A The same day he came at half-past twelve, and then half-past two or three.

Q So he was there twice on the 27th of December, is that right? A Yes, sir.

Q Have you ever been in Alderisio's house? A No, sir.

Q Did you ever see Dominico Alderisio? A No, sir.

Q Never saw him before? A No, sir.

Q Is that right? A Yes, sir.

Q Have you had any conversation with him? A No, sir.

Q Did you on the 27th day of December, 1904, have a

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conversation with the complaining witness Domenice Alderisio, and was he in your house No. 2076 First Avenue? A No, sir, never.

Q Or at any other time? A No, sir.

Q Did you on the 27th of December, or on the 28th of December, or anytime, show to Alderisio, or to his sister in law, a light coat that your husband wore on the night of the 26th of December, 1904? A No, sir; I did not, because my husband has no light coat.

Q Did you show them any coat belonging to your husband? A No, sir.

Q Did you have any conversation with them about a coat? A No, sir.

Q Did you have any conversation with them about this shooting? A No, sir.

Q Or with either of them? A No, sir, with none of them.

BY MR. PALMIERI:

Q Did your husband ever carry a pistol? A No, sir.

Q Did you ever have a pistol at your home? A No, sir.

BY MR. KRESSEL:

Q You never saw your husband have a pistol? A No, sir.

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Q Did you? A No, sir.

Q You don't know whether he had a pistol or not, do you? A Why shouldn't I know? He lives with me, and I know if he had a pistol or not.

Q Are you willing to swear of your own knowledge that your husband did not at anytime have a pistol in his possession? A I will swear 100 times that he didn't have a pistol.

G U I S E P P I C A C C I T O R E, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PALMIERI:

Q You have been for three years the housekeeper of the premises 2076 First avenue? A Yes, sir. Two years that I have not been there as janitor.

Q But you have been? A I was there for three years.

Q During that time do you remember this family of the defendant and the defendant living with his family on the top floor of those premises?

Objected to. Objection sustained.

Q Do you know other people that live in that house?

Objected to.

BY THE COURT:

Q Do you know others who know the defendant? A Yes, they are here; I know them.

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BY MR. PALMIERI:

Q What is the defendant's character in the premises which he occupies and of which you were the housekeeper for three years for peace and quietness in that building?

Objected to.

Q What is the defendant's reputation for peace and quietness among those with whom you have discussed his character?

Objected to. Objection sustained.

MR. PALMIERI: I will strike out the words "in that building."

Q What is the defendant's reputation for peace and quietness, good or bad? A Well, how can I know it; I only attend to my own business.

Q Don't you know good people in your building and bad people?

Objected to. Objection sustained.

Q Didn't you tell me outside that it was good?

Objected to.

Q Didn't you talk to me outside? A Yes, sir, I talked with you.

Q Did I put some questions to you? A You asked me if

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I know Derosa to be a shooter, and I said no I never knew him to be a shooter, or that he is a hunter, that is what I answered.

No cross-examination.

JOSEPH RAIMO, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PALMIERI:

Q Are you employed in the office of defendant's counsel?

A Yes, sir.

Q Did you yesterday, at my request, serve a subpoena, or attempt to serve a subpoena, upon the present housekeeper of the premises 2076 First avenue? A Yes, sir.

BY MR. KRESSEL:

Q Which is it, did you serve it or attempt to?

A I attempted to serve it.

BY MR. PALMIERI:

Q Did you see him? A Yes, sir.

Q State whether you served the subpoena, or the circumstances under which you attempted to serve it.

Objected to. Objection sustained.

Q Did you go into the building at my request and measure the hallways of the building.

Q Did you measure the hallways of the building? A Yes,

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sir.

Q What is the measurement of the hallways, the first floor, second floor, etc.?

Objected to.

MR. PALMERI: I simply want to enlighten the court and jury as to the exact measurements of the hallway where the shooting took place.

Objection sustained.

Q Did you measure the first hallway?

Objected to. Objection overruled.

Q What is the measurement of the first hallway?

A Three feet wide and twelve feet long.

Q That is from door to door, twelve feet long?

A Yes, sir.

Q Where are the toilets? A They are in the hall right at the top of the first landing, right at the top of the staircase.

Q In the middle of the hallway? A Yes, sir.

Q How are the rooms divided; how are the doors with respect to the hallways; how do they lead into the hall, the doorway of each family? A You can't get into the family

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before you get into the hall; there is a door which separates one from another.

Q You mean there is a separate hall besides the long hall?

Objected to. Objection sustained.

A I mean this: Before you get into the hallway where the families have to go you must pass another door, and when you pass this door you get into a hallway and then you can get into where the families live, if you like.

Q That is, if you wished to go into the hall of any family on any floor, you would first have to open one door?

A Yes, sir.

Q Then there is a small hallway? A Yes, sir; this divides the two families.

Q There are two families on that small hallway? A Yes, sir.

Q Then each of those two families have another door? A Yes, sir.

Q Is that correct? A Yes, sir; two or three doors according to the rooms.

Q Now, in the measurement of twelve feet you have not included this small hallway? A No, sir.

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Q You simply measured twelve feet from one of these doors to the other door which divides the two families.

Q Now, did you notice the hallway with respect to light in the daytime, especially the first hallway? A I was through the building and I found that the first floor was the darkest of them all.

Q Can you give any reason to the jury why?

Objected to. Objection sustained.

CROSS-EXAMINATION BY MR. KRESSEL:

Q What time were you there? A I was there around half-past twelve yesterday.

Q Half-past twelve? A Yes, sir.

Q In the afternoon? A Yes, sir, noontime.

Q Is that the only time you were there? A Yes, sir; yesterday I was there around half-past twelve, or half-past one, I should say.

Q Were you ever there in the evening? A No, sir.

PROSPER CACCIATORE, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PALMIERI:

Q Are you the vice-president of any society? A Yes, sir.

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Q What is that society? A A mutual society, Stillian-
ese.

Q Where did you reside on the 26th of December, as also
the night of that day? A Yes, sir.

Q Where? A 2076 First avenue.

Q Is the barroom of that lady there, whatever her name
is, in her husband's name, Viggiano. A Yes, sir,
she is the wife of the man who keeps the place.

Q What time were you there? A I was there at eight
o'clock when I went to the meeting.

Q Did you hear any shots at anytime that night?

A About half-past ten.

Q Tell the jury when you heard those shots. What did
you do with respect to rushing toward the door? A We all
got up and wanted to get out.

Q What did Mrs. Viggiano say to you when asked to open
the door? A We went to open the door, but we remained in
the place.

Q Did she permit you to open the door? A No, sir; she
wouldn't let us.

Q How long was it before she would permit anybody to
open the door? A She opened the door about five minutes

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after and we were all looking at the door.

Q Did she say to you any reason why you shouldn't open the door? A No, sir.

Objected to. Objection sustained. Exception.

Q Tell the jury what occurred there five minutes afterwards, who opened the door? A She opened the door?

Q How did she open it? A Just a little bit so she could see herself. We didn't see anything and we went to look through the window, and we didn't see anything.

Q When she opened the door in the manner you describe what was the condition of the hall, was it light or dark? A Dark.

Q When she opened the door and looked through, what did she say to you? A She said, "It is nothing."

Q What occurred after that? A We returned inside of the place.

Q Who shut the door? A One of the members.

Q When Mrs. Viggiano held the door in the condition in which you have described, did you see any man pass there, or if a man did pass there, did you hear any footsteps? A No, sir, never.

Q Did you ask Mrs. Viggiano as to who did the shooting, or anything about that? A We asked and she said she didn't

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know who. She said, "I don't know."

Q Did she tell you she saw somebody pass through?

A She didn't tell me anything.

Q About how many minutes afterwards did you see the man who claimed that he had been wounded, this complainant, about how many minutes afterwards? A About fifteen minutes.

Q You saw him downstairs? A No, sir; he called the president; somebody called the president to go outside, and afterward another member comes in and he says to us, "It is all over, because the president of the society he is gone away."

Q You can't state the conversation in the society room between other people there. A We all went out.

Q You all went out? A Yes, sir; and we seen this fellow here with a hole in his arm.

Q Did you speak to him? A Yes, sir, we spoke to him, and asked him what was the matter, and he said, "I am shot;" that is all.

Q Did you ask him who shot him? A Yes, sir.

Q What did you say? A I said, "Who shot you?"

Q What did he say? A He said, "I didn't see; it was dark."

Q You came to the doctor's office with him?

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A Yes, sir, I did. I went to 113th street, then we went to 114th street; but the doctor only let him come in, because there was too many there they wouldn't let us in.

Q During all that time, up to the time you went to the doctor's office, and up to the time he came out of the doctor's office after he was shot, did he tell you who did the shooting? A No, sir.

Q Or that he had seen who did the shooting? A No, sir.

Q What did he say? A He said, "I don't know; it was dark."

Q Did he say any reason why he was shot; did you ask him why he was shot? A He said he was going in the closet.

CROSS-EXAMINATION: BY MR. KRUSEL:

Q Is that all he said? A Yes, sir.

Q Going to the closet? A Yes, sir; going to the closet and he got shot.

Q Where was this meeting? A 2076 First avenue.

Q What part of the building? A Down on the ground floor.

Q In the saloon proper? A Not in the saloon, in the back room.

Q In the room back of the saloon? A Yes, sir.

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Q Is that room divided off from the saloon? A Yes, sir, two doors, one goes through the saloon and another goes through the hall.

Q There are two doors from the room where you had your meeting, is that right? A Yes, sir.

Q One door leads into the hallway? A Yes, sir.

Q And the other leads into the saloon? A Yes, sir.

Q Is that right? A Yes, sir.

Q Now, which one of those doors did you try to open, which Mrs. Viggiano wouldn't let you open? A The one that goes into the saloon.

Q The one that goes into the saloon? A Yes, sir.

Q So that the door was not open? A No, sir, it was not open.

Q At no time? A At no time.

Q Did you open any door at all? A No, sir, I did not.

Q Did you look through any door? A No, sir, we did not

Q You did not? A No, sir.

Q So you don't know who passed in the hallway? A No, sir, I did not see anybody pass; I don't know who passed.

Q You didn't look through the door? A No, sir.

Q So you don't know who passed, if you didn't open any

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door? How did you know that Mrs. Viggiano opened the door and looked through? A Because we were all in the saloon and we all wanted to get out at that time.

Q Did you see her open the door? A Yes, sir, I saw her open the door.

Q How could you see that if both of your doors were closed and they were not open at anytime? A That one was opened.

Q Which one was opened? A The one that goes through the hall, through the hall into the saloon.

Q There was a door on the room where you were meeting?
A Yes, sir.

Q Was Mrs. Viggiano in the room where you were meeting?
A No, sir.

Q How could she open the door from the room there where you were meeting? A We opened it ourselves.

Q I thought you told us a minute ago that the door was opened by you? A It was not opened then, it was opened after a while; we opened it-- Mrs. Viggiano, she came in and opened the door.

Q She came into the room where you were meeting and opened the door? A Yes, sir.

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Q You didn't open it? A No, sir.

Q Why didn't you open it? A Because I couldn't open it.

Q Why not? A She said there was nothing.

Q She said it wasn't anything, and that is why you didn't open it? A Yes, sir, that is why we didn't open it.

Q Did you see anybody else at the door beside Mrs. Viggiano? A Her brother.

Q Whose brother? A Mrs. Viggiano's brother.

Q Mrs. Viggiano's brother? A Yes, sir.

Q You didn't go to the door? A No, sir, I didn't.

Q Did you have a conversation with Mrs. Viggiano?

A No, sir, I don't remember.

Q No talk at all? A Yes, sir, no talk at all.

Q That is right? A Yes, sir.

Q Absolutely nothing? A Nothing.

Q Did you say on your direct examination that you asked her if she saw anybody, and she said no? A That was after, when it was all over.

Q You just now said that you didn't have any conversation with her. (No answer.)

Q Do you know the complaining witness? A Yesterday.

Q You know him since yesterday? A Yes, sir.

Q Had you ever seen him before yesterday? A No, sir.

Q Never saw him before yesterday? A No, sir.

Q If you never saw the complaining witness before yesterday, why did you state on your direct examination that you had a conversation with him, and that you went to the doctor's with him? (No answer.)

Q Whom did you mean as having known since yesterday? (No answer.)

Q Whom did you mean when you answered my question that you knew him only since yesterday? A I don't know what complainant means.

Q So you answered my question without knowing what it was, did you? A Yes, sir, I gave an answer to that which you asked me.

Q Do you know Domenico Alderisio? A Yes, sir.

Q How long have you known him? A I knew him from Italy I knew him in Italy.

Q In Italy? A Yes, sir.

Q How long have you known him in this country?

A I know him about three or four months.

Q Did you see him on the night of this shooting?

A No, sir, I didn't see him when the shooting happened, but I saw him afterwards.

Q On the night of the shooting? A The same night.

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Q What did he tell you about the shooting?

A I said, "You are wounded;" he said, "Yes;" I said, "Who did it?" He said, "I don't know; it was dark."

Q Anything else? A That is all he said. Then we went in the drugstore.

Q Is that all he told you? A Then when we left the drugstore I talked to him again, and I said, "Is it a very bad wound, is it a bad wound," and he said, "No, it isn't."

Q Is that all he said to you about the shooting?

A That is all.

Q Didn't he tell you how the shooting came about?

A He said he was on his way to the watercloset in the hallway-- there is this water closet-- he was on his way to the water closet, and he heard a pistol shot and he was wounded.

Q Did he say that he had any talk with the man who shot him? A No, sir; he didn't know him; he said he didn't know him.

Q Did he say that he had any trouble with the man who shot him? A No, sir, he didn't say anything about that.

Q Now, when was the next time that you saw each other?

A I didn't see him since.

Q You haven't seen him since until you saw him in court now? A Yes, sir.

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Q Up to this time you didn't know who did the shooting?

A Up to when?

Q To-day? A No, sir.

Q You didn't know? A No, sir. That is true, because I didn't even know that man (indicating the defendant).

Q You don't know the defendant at all? A I knew him by sight, but I never knew his name.

Q To whom did you talk about this case first?

A With the lawyer, Mr. John Palmieri.

Q When? A This morning in his office.

Q Is he the first man that you spoke to? A Yes, sir.

Q You never spoke to anybody at all about this case until you spoke to Mr. Palmieri this morning, is that right?

A Yes, sir.

Q What is that? A Yes, sir, nobody else.

Q Nobody else? A No, sir.

Q Mr. Palmieri is the first man you spoke to about this case, is that right? A Yes, sir.

Q You didn't tell anybody as to what you knew about the case, or what Alderisio told you about it, until you told it to Mr. Palmieri this morning? A No, sir.

Q That is right? A Yes, sir; I didn't say it to anyone.

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Q Do you understand me? A Yes, sir, I didn't talk to anybody about the affair.

Q There is no mistake about it? A No, sir.

Q Did you see the defendant on the night of the shooting

A No, sir.

Q Between December 26th and the present date, did you see the defendant? A No, sir; I did not.

Q Did you see his wife? A No, sir.

Q Did you talk to her? A No, sir.

Q Tell us how you came to go to Mr. Palmieri's office this morning? A I received a summons to appear before him.

Q You received a summons to appear before Mr. Palmieri?

A Yes, sir.

Q Have you got that summons? A I gave it at the door. A youngman came to see me about Mr. Palmieri who sent him, and I said I don't want to come because I don't know about the case, about the shooting, and I said, "if you want me, give me my day's wages."

Q Then you went down to Palmieri's office? A He said, "If you want to have your wages go first to the office.

Q Then you went down to Mr. Palmieri's office?

A Yes, sir.

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Q And you found out that you knew a great deal about the case, didn't you?

Objected to. Objection sustained.

Q Well, you knew about the case all that you testified to to-day, didn't you, at the time that the youngman came to your house? A Yes, sir; just what I told to him is as much as I know.

Q Yet you told the youngman you didn't know anything about it? A I said to him, "I don't know about the case," and he said to me, "Come to the office and you will know why you are wanted."

Q Did you get the day's wages paid? A No, sir, not yet.

Q They promised it to you? A Yes, sir. Mr. Palmieri or the youngman said-- the youngman said my wages will be paid.

FRANCESCO MALO, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PALMIERI:

Q Did you attend the meeting of this society of which the witness who preceded you is the vice-president, upon the night of the 26th of December, 1904, in the back room of Mrs. Viggiano's saloon?

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A Yes, sir; I belong to that society and I was at the meeting

Q Did you see any shots fired, if so at about what time?

A About half-past ten or eleven o'clock when I heard the shots.

Q When you heard the shots what did all the members do?

A About four or five were there; we left the room, the meeting room and entered the barroom with the intention to see what is going on.

Q When you went to the barroom what did you do?

A Well, the landlord didn't want to open the door; he said "Wait, someone will fire in the barroom."

Q Who was the landlord? A The landlady.

Q How many minutes afterwards did you attempt to open the door, or was the door opened? A About five minutes after

Q Will you tell the jury how Mrs. Viggiano opened that door? A She first opened it a little ajar, and she was looking out if she see anyone, and then the door was opened and we all went out.

Q Did you see anybody when she opened the door in the condition in which you have described? A I wasn't near the door and I couldn't see anybody; it was dark.

Q The light was turned off? A It was dark.

Q Were the lights turned off in the hallway? A There was no light; it was dark.

Q Did Mrs. Viggiona tell you at anytime that evening that she saw the defendant, or someone that looked like the defendant, with a light overcoat, pass by her, in a placid, leisurely manner?

Objected to.

Q Did she ever tell you, while she held the door ajar in the position in which you have described here, that she had seen any person that looked like the defendant, with a light overcoat, pass by her?

Objected to. Objection sustained.

Q Did Mrs. Viggiona say anything as to what she saw when she opened the door?

Objected to. Objection sustained. Exception.

Q Did you see the wounded man, or the man who claimed he was shot by the complainant, come down about two minutes afterwards? (No answer).

Q Did you see the wounded man afterwards? A About fifteen minutes afterwards I seen him.

Q When he came down, what did you do? A He came down about fifteen minutes later.

Q Where did you see him? A I saw him in the street;

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they were going to the doctor's.

Q Did you go along? A Yes, sir, I went along.

Q Did you know the complainant that evening, this Domenico Alderisio? A No, sir; that was the first time I saw him; I never knew him before that time.

Q Did you ask him any question as to how he was wounded or who wounded him? A Yes, sir; I talked to him.

Q What did you say to him or he say to you? A I asked him, I said "who was it," and he said, "How could I know; it was dark."

Q Did he tell you that he saw the man who shot him? A No, sir; "I only felt I was wounded; but I didn't see, it was dark."

CROSS-EXAMINATION:

Q Did you go with him right to the doctor? A Yes, sir.

Q You walked with him straight from his house to the doctor? A Yes, sir.

Q Is that right? A Yes, sir.

Q You walked right beside him so that you could talk to him? A Yes, sir; we were walking and one asked him a question and the other asked him a question, and so I couldn't speak all the time to him.

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Q How many people were there? A There was one man and there was seven or eight other men. He can't talk to everybody; he must talk to one man; there was so many questioning the wounded man so that I couldn't all the time talk to him.

Q How many people were there going with him to the doctor? A About seven or eight men.

Q You didn't know the complaining witness at all, did you? A Yes, sir; I didn't know him before that evening; the other people said that he is a brother of the president of the society.

MR. KRESSEL: I ask that that be stricken out, what other people said.

THE COURT: Yes.

Q You didn't know him before that evening? A No, sir.

Q Why did you go along with him to the doctor? A Because I saw that his brother was with him, and so I went; I know his brother.

Q You know his brother? A Yes, sir.

Q That is why you went with him? A Yes, sir.

Q How many other people did you see the defendant talk to on his way to the doctor? A All talked to him.

Q All eight of them talked to him while he was going to the doctor, is that right? A Yes, sir.

Q As many as were there? Did you hear what he said to all of them? A His answer was always, "I couldn't see the man, it was dark."

Q You heard him say that, did you? A Yes, sir; that is what he said.

Q I ask you who were some of the men who were with you, among these eight? A Cacciatore was one, and Lauritzano and Cipiano, and another one here; I am not giving the names of everybody.

Q Did you hear the complainant talk to all of them, or those that you have mentioned? A Yes, sir.

Q You heard him say to each one of them that he didn't know who shot him, isn't that right? A Yes, sir.

Q That was his only answer to everything that you asked him? A That "it was dark, I couldn't see."

Q It was dark, and he couldn't see? A Yes, sir.

Q When you looked into the saloon the door was wide open wasn't it?

Objected to.

Q When you looked out it was wide open at that time, wasn't it? A Yes, sir; we went through the same door there where the landlady opened it ajar a little bit before that.

Q But the first time that you looked out into the hall-

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way the door was wide open wasn't it? A Yes, sir; because when we got out it was all open.

Q You say that it was so dark that you couldn't see anything in the doorway? A From the top down it was all dark.

Q I am asking you about the hallway where the saloon was; was there any light there? A No, sir, no light.

Q Was there any light in the saloon? A In the saloon there was a light.

Q Was there any light going out of the saloon through the door that was wide open? A Not far away, only a little bit out side of the door.

Q There was some light, wasn't there from the inside?

A Yes, sir.

Q Do you know the defendant? A Yes, sir.

Q How long have you known him? A Yesterday.

Q Since yesterday? A Yes, sir.

Q A total stranger to you up until yesterday, is that right? A Yes, sir.

Q Do you know his wife? A No, sir.

Q To whom did you first speak about this case?

A A person acquainted with this man here; they said you have to go and be examined, and go and tell what you saw and what you know.

Q Who are those persons? A Joseph Longo.

Q Joseph Longo? A Yes, sir.

Q Is he here in court? A Yes, sir.

Q When did you speak to him about this case?

A Yesterday morning.

Q Yesterday morning? A No, sir; the night before last he came and called on me in the house.

Q The night before last? A Yes, sir. He says, "You got to come for a witness."

Q He came to your house? A Yes, sir. He says, "You got to come for a witness;" he says that now there was trouble "my son in law got arrested, and "you got to come for a witness;" he says, "that night while you were in the saloon about that affair that happened that night; my son in law got arrested and you got to come and tell what you know about it?"

Q Then where did you go? A I came right in his office.

Q To the counsel's office? A Yes, sir.

Q And you told him what you knew about it? A I told him just what I told here now.

Q That was yesterday, wasn't it? A Yes, sir; he asked me what I know.

Q Wasn't it yesterday? A Yes, sir.

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Q Not this morning? A No, sir; this morning I wasn't there.

Q Tell us what you told him of what happened? A He didn't ask me anymore; he asked me yesterday; he didn't ask me any more this morning.

Q Had you spoken to the defendant's father in law about this case, before he came to your house? A Yes, sir; I was talking to him once before.

Q You had spoken to him once before? A Yes, sir, I had, a week ago.

Q About a week ago? A Yes, sir.

Q You told him what you knew about the case?

A I always said the something that I said here.

Q I know that, but you told him about it? A Yes, sir; I told him about it, about the something that I told here.

Q How long have you known his father in law?

A Seven years ago.

Q Seven years? A Yes, sir.

Q How did you happen to talk to him? Did you know that this man was arrested? A Yes, sir.

Q Did you know what he was arrested for? A Well, all I heard was in an indifferent way, that he was arrested and

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accused of what happened that evening.

Q You didn't know him at all, did you, this defendant?

A Yes, I know this man seven years ago.

Q You knew him seven years ago? Didn't you just a little while ago say that you knew him only since yesterday?

A I thought you were talking about the lawyer.

Q So, you have known the defendant for seven years?

A Yes, sir, seven years.

Q You are a friend of his? A Yes, sir.

Q Did you see him on the 26th of December? A Nothing in particular, only he is an acquaintance of mine; I know him.

Q Did you see the defendant on Christmas Day? A No, sir.

Q Have you seen him since Christmas until this morning? A No, sir. I seen him lots of times.

Q You have seen him lots of times? A After Christmas I seen him.

Q You did see him? A Yes, sir.

Q After Christmas? A Yes, sir.

Q How many times did you see him after Christmas?

A I seen him about fifty times.

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Q How long after Christmas did you see him? A I seen him after Christmas; after that complaint-- I seen him about a week after.

Q A week after? A Yes, sir. I says, "What's the trouble?" I asked him what is the trouble," and he says, "Somebody shot me downstairs; I didn't know who."

Q What is that? A He said, "Somebody pushed me down, I don't know who-- somebody is putting on me the fact that I done that that evening and I don't know anything about it."

Q That is all the defendant said to you? A Yes, sir.

Q Did he tell you what he was accused of? A He says, about the shooting; I was talking about the shooting and he says, "I don't know anything about it."

BY MR. PALMIERI:

Q You were a member of the same society of which the complaining witness is a member and president? A Yes, sir.

Q You are very friendly with the president of the society of which you are a member, aren't you? A Yes, sir.

LOUIS T. TANGREDI, a witness for the people, recalled:

BY MR. PALMIERI:

Q On that night did you knock at all the doors on the top floor? A No, sir. The top floor, yes, sir.

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Q At all the doors? A Yes, sir.

Q Did anybody open their doors? A No, sir.

Q No family opened the door? A No, sir.

Q After you knocked at all the doors? A Yes, sir.

Q Four families on the floor? A Yes, sir, four families on the floor.

FRANCO DE LERMO, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PALMIERI:

Q Do you live with your family and children?

Objected to.

Q On the top floor of these premises?

Objected to.

Q Where do you live; where were you living in December, 1904? A 107th Street on the top floor.

Q What number? A 2074.

Q Where was this defendant living in December, 1904?

A We were living window to window.

Q Window to window? A Yes, sir. Window to window in the same house; we can see each other; there is my window and here is his window (illustrating).

THE COURT: Strike that out; it doesn't mean anything.

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A I am not in the same house; he is in the next house to mine, but the windows are so near that we can talk to each other.

Q From your window you can look through the apartments of the defendant in 2076 First avenue? A Yes, sir, through the windows.

Q What did you notice on December 26th, 1904, with respect to the defendant, did you see the defendant in his rooms? (No answer.)

Q Did you see the defendant on the 26th of December, 1904? A Yes, sir; I saw him.

Q Where and what was he doing? A I saw him in the evening; he was eating at the time.

Q When he got through eating this evening-- did you notice what time he got through eating? A At half-past nine he talked to me through the window, and he said, "Well, Franco, well, I am going to bed."

Q Did he say good night? A Yes, sir.

Q You were very friendly with this defendant before the 26th of December? A Four years we were neighbors and lived next to each other.

Q And talked to each other quite often? A Yes, sir; every evening we used to talk.

Q This was Christmas night, wasn't it? A Monday evening.

Q After Christmas? A He talked to me and said, "I am going to bed. It was half-past nine.

Q After he said that to you did you see the lights in his room? A The lights were put out and he went to bed.

CROSS-EXAMINATION BY MR. KRESEL:

Q You live at 2074 First avenue? A Yes, sir.

Q And the defendant lives at 2076 First avenue? A Yes, sir, the next house.

Q Your flat is parallel with the defendant's flat, isn't it? A Yes, sir, it is in a straight line.

Q Just like two hands that way, isn't that right (illustrating)? A It is a light shaft, an air shaft, the air shaft is between us.

Q The air shaft is between you? A Yes, sir.

Q So, you leaned out of your window through the air shaft and talked to the defendant, did you? A Yes, sir; we could put a board across from my room and pass to his room.

Q He said to you, "Franco, good, night, I am going to bed," is that right? A Yes, sir, that is all we said.

Q Then, you stood at your window and watched him close it, is that right? A No, sir; I pulled my window down and he pulled his down and we went to bed.

Q But you stood at your window to see where he went to then? A I saw that he took off his pants and shoes. I saw him do that.

Q You stood at the window and saw him take off his trousers and shoes, is that right? A Yes, sir.

Q You saw him get into bed, too? A No, sir.

Q You didn't see him get into bed? A No, sir; I didn't see him laying in the bed.

Q But you saw him get into bed, didn't you? A Well, I didn't pay so much attention; I shut my window and he shut his window.

Q But you stood at the window and watched him undress himself, didn't you? A I said before that he said good night and he took off his shoes and his pants.

Q So that he had the window open on the 26th of December at half-past nine, when he took his trousers off, and was talking to you through the open window, is that right?

A Always in the evening we talked together sometimes.

Q Did you see him turn out the light? A Yes, sir.

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Q So that you stood at your window and saw him turn off the light? A At the same time that he did I turn always out my light, and I went to bed too.

Q Now, you have talked with him before on other evenings, haven't you? A Every evening we talked together.

Q How do you remember that this was the 26th of December, 1904? A I didn't know anything about the shooting that night, but I talked to him every night.

Q Are you willing to swear that the night you are talking about was the 26th of December, 1904? A Yes, sir. I will swear forty times it was the 26th.

Q How do you remember that it was the 26th?

A Well, the day before was Christmas; Sunday was Christmas Day, and that was the next day.

Q This was the 26th because the day before was the 25th, is that right? A Yes, sir; I know that.

Q Did you talk to him the night before through the window? A We talked at noontime; we talked also in the evening the day before.

Q Did you talk to him on the 27th through the window?

A No, sir; I wasn't home on the 27th; I was to my brother's in 114th street.

Q Well, on the 28th? A Well, I saw him when he came

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home from his work. I was tired and I went to bed and I did not talk.

The Court admonished the jury and took a recess.

AFTER RECESS.

ANTONIO DEROSA, the defendant, being duly sworn, in his own behalf, testified as follows:

DIRECT EXAMINATION BY MR. PALMIERI:

Q How long have you been in this country? A Fourteen years.

Q Are you a married man? A Yes, sir.

Q How many children have you? A Four.

Objected to. Objection sustained.

Q How long had you been living at the premises 2076 First avenue, in the city and county of New York, before the 26th of December, 1904? A Four years.

Q Where were you working, in whose employ were you on or about the 26th of December, 1904? A Dawson & Archer.

Q In what capacity? A Hod carrier.

Q For how many years have you been working for this firm? A About three or four years or more.

Q Were you in their employ on the 26th day of December,

1904? A Yes, sir.

Q Where were you working as a had carrier, at what job?

A On 8th avenue between 73rd and 74th streets.

Q Near what street is 2076 First avenue, near 107th street, isn't it? A Yes, sir.

Q Is it near 107th street? A Yes, sir.

Q How long does it take from your home-- from 73rd street and 8th avenue to go to lunch at 12 o'clock?

Objected to. Objection sustained.

Q Did you ever go to lunch from your job on 8th avenue to 107th street and First avenue? A No, sir.

Q I show you a paper and ask you what this paper is.

Objected to. Objection sustained.

Q Were you ever arrested or convicted of any crime during the fourteen years that you have lived in this country with your family, or at anytime before that? A No, sir, never.

Q Were you ever in any trouble before? A No, sir.

Q Do you attend church?

Objected to. Objection sustained.

Q On the 26th day of December, 1904, to what church did you go with your family? A

Objected to.

THE COURT: He may answer.

A 115th street.

Q And what avenue? A Near Pleasant avenue, the river.

Q How long were you in church? A About 11 o'clock I left the church.

Q Where did you go with your wife and children?

A Home to my own home.

Q What did you do home? A We had dinner, and then I remained home. I don't know exactly, it was two or half-past two when I left the house; I went out for a little while.

Q You stayed out for how long? A I didn't look at the clock, but it seems to me it was six or seven o'clock when I came home.

Q After you came home what did you do? A I remained a little while, and then I had something to eat and then I went to bed; then I played with the children; then I and my wife were talking for a little while, and then I ate and then we went to bed; I talked to my neighbor also.

Q Did you hear any shots fired below your house on the evening of the 26th of December, 1904? A No, sir.

Q Some testimony has been produced here by the complain-

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ant that he saw you shoot at him on the evening of the 26th of December, 1904; what do you say about that? A No, sir; I didn't see him; I didn't see that man.

Q He says you shot at him? What do you say about that? A No, sir; I did not.

Q Did you ever carry a pistol in your lifetime? A No, sir, never.

Q When the officer came to your rooms did he find any pistol in your rooms? A No, sir.

Q After you retired and went to bed on the evening of the 26th of December, the following morning, which was December 27th, where did you go? A I went to my work.

Q What time did you come home on the 27th? A About 6 o'clock.

Q On the morning of December 28th, where did you go? A I went again to work.

Q Did you remain home all night the evening of the 27th of December to the following morning of December 28th? A Yes sir.

Q Did anybody knock on your door on December 26th or December 27th, to your knowledge, looking for you? A No, sir, I didn't hear any.

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Q On December 28th what time did you come home from work? A About a quarter of six or six o'clock I came home.

Q When you were home what did you do? A I had something to eat, and then I remained a little while talking, and then I talked with my neighbor.

Q Then what did you do? A He is just opposite my window.

Q Then, after that what did you do? A Then I felt very tired and I went to bed.

Q Did you hear any knock at your door about eleven o'clock that night? A Yes, sir, on the 28th.

Q Who was the one that knocked on your door? A The police.

Q Tell the jury in the same language that you used to the police, the English language, what you said? A The police called me; they knocked on the door and they said: "Who are you, are you Tony Deros?" I said, "I am Tony Derosa;" I says, "What do you want," they says, "open the door." I opened the door and they arrested me; they says, "You put your clothes on." I says, "What is the matter; what do you want?"

Q Is that what you said to the police, "What is the matter; what do you want?" A He says, "All right; put on

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your clothes; that is all."

Q "Put on your clothes, that is all?" A Yes, sir.

Q Did you do so? A Yes, sir.

Q What clothes did you put on? A I went with him.

Q What clothes did you put on? A These clothes; this coat.

Q When you say "this coat" just identify it on the record; I want to know what kind of a coat it is; is it black or white; it is a black coat, isn't it? A Yes, sir; it is a black coat.

Q Did you ever possess a light coat, a light overcoat?

A No, sir, never.

Q Was that the only overcoat you had at that time?

A Yes, sir.

Q Did the police look for any other overcoat in your home? A They looked but they couldn't find any other coat than this. This is the coat that I put on.

Q Is that the first time you heard of any shooting having taken place in those premises and that you were charged with the shooting? A No, sir; I didn't hear from anyone that there was shooting in the house, only from the police.

Q Had any policeman come to your door, as far as you know, from the time of this alleged shooting up to the time

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of your arrest? A No, sir; no one came to my house.

CROSS-EXAMINATION BY MR. KRESEL:

Q For whom are you working now? A For Dawson & Archer.

Q What job are you working on now? A Always the same job, hod carrier.

Q What job, what particular place? A 8th avenue and 73rd and 74th streets.

Q On 8th avenue? A Yes, sir, 8th avenue between 73rd and 74th streets, the whole block.

Q How long have you been working on that particular job?
A About three months I have commenced work.

Q Do you know the complaining witness Dominico Alderisio?
A No, sir, I never knew him.

Q Do you know that man (pointing to the complainant)?
A I know him now because he had me arrested.

Q When was the first time that you ever saw him?
A The same night when I was arrested, I saw him for the first time; I never saw him before.

Q On the 27th of December, did you work? A Yes, sir.

Q On the 28th? A Yes, sir, I worked on the 28th, and I was arrested that night; I worked the same day of the night that I was arrested.

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Q Where did you sleep on the night of the 27th? A In my own home in my bed.

Q You are not mistaken about that? A Yes, sir; I am sure of it.

Q The first time that you knew that you were charged with the shooting was when the officers came? A I heard in the house there was somebody was shot; that is all I know.

Q What did you hear in the house? A They didn't accuse me; I heard there was a shooting in the house.

Q I come back to the same question: The first time that you knew that you were accused of the shooting was when the officers came to the door, and told you to dress yourself and go with them? A Yes, sir.

Q There is no mistake about that? A No, sir.

Q Did you hear your wife testify this morning? A I heard her speak, but I don't know exactly what she said.

Q She said that on the 27th of December, that a brother in law of Domenico Alderisio came to your house twice, and spoke to you about the shooting, and that when you came home she told you all about it; is that true? A I don't know. I was working all the time.

Q Did your wife tell you? A He didn't find me in the house.

Q Did your wife tell you about it when you came home?

A She told me when I came home that a certain man was there who wanted to see me.

Q She just told you that some man was there who wanted to see you, is that all? A Yes, sir.

Q Now, what did the police say when they came in?

A The officer forced in the door and said that he wanted me.

Q Didn't you open the door for him? A I did. First he asked me my name and I said Tony Derosa.

Q Before the officer came in, what did he say to you?

A He knocked on the door, and I said "who's that;" he says, "open the door;" I says, "who is you;" he says, "open the door; are you Tony Derosa;" I says, "yes, I am Tony Derosa."

I was only in my pants; he says, "put your clothes on; dress up yourself." I says, "what you say;" he says, "dress up yourself;" and so I says, "What is the matter; I don't know what is the matter with you;" and he says, "dress up, that all;" and I saw then it was a policeman.

Q That is all that was said, was it? A Yes, sir.

Q Did he tell you he was an officer? A Sure, he told me.

Q Then, there was something else said, he told you he was an officer? A He says, "Dress up yourself; that is all

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he told me.

Q Did he tell you-- have you told us everything that you said to him? A That is all I say.

Q Did he tell you he was arresting you for shooting Al-derisio? A No, sir; he didn't tell me nothing.

Q Didn't he tell you why he was arresting you?

A I told him, "What was he arresting me for, and he says, "well, it was about yourself; it is no use." That is all he said to me and we came away.

Q He didn't tell you why he was arresting you, did he?

A I says, to him, "What is the matter you can arrest me?"

Q Did he tell you why? A I says to him, "What is the matter with you?"

Q I don't understand. Then you asked him why he was arresting you and what did he say? A He said "dress up yourself, that's all." He says, "That is all the coat you got?" And I dressed myself.

Q "That is all the coat you got?" A Yes, sir; he says "Put it on."

Q Anything else he said? A That is all he said.

Q You said on your direct examination that the officer searched your rooms for an overcoat? A Sure he searched; I said so.

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Q Did he search your rooms to find an overcoat?

A Sure.

Q Did he search your rooms? A Sure, and he said, "Put on your coat."

Q Do you know of any reason why Domenico Alderisio should accuse you of shooting him? Did you ever have any trouble with him? A No, sir.

Q You don't know him at all? A I never hurt him at all

Q He is an absolute stranger to you? A I don't know him at all.

Q You never saw him in the house where you were living until the day you were arrested, is that right?

A Yes, sir; that is the time I know him.

Q That is the first time you noticed him? A Yes, sir.

Q Did you know that he was shot before you were arrested? A I know that this man was shot, but I did not have anything to do with him, or anything of the difficulty, nothing at all about it more.

Q Who told you that Alderisio was shot? A Nobody exactly told me he was shot, but I heard the people in general say so.

Q That is all you know about it? A Yes, sir; that is all I know about it.

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SABATO VIGORITO, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PALMIERI:

Q Do you know this defendant? A Yes, sir.

Q What is your business? A My business-- I was eleven years contractor and now I am in the saloon business.

Q You own your own house 2237 Second avenue?

A Yes, sir.

Q How far is your house from the defendant's house on First avenue? A I live at 2237 Second avenue and this fellow lives at 107th street and First avenue.

Q 2076? A Yes, sir.

Q That is only a few doors away? A Yes, sir.

Q How many years have you known him and his family?

A I know that gentleman about eight years.

Q Do you know other people that know his reputation?

A Yes, sir.

Q What is his reputation in the locality in which he lives for peace and quietness, good or bad? A Well, anybody can say he is a good, hard-working man and supports his family nicely; that is all I know so far.

CROSS-EXAMINATION BY MR. KRESSEL:

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Q What is your business, did you say? A My business?
Contractor.

Q Are you now engaged in the contracting business?
A Yes, sir.

Q You don't own a saloon? A I am in the saloon
business too.

Q Why didn't you tell us you were in the saloon business
A I said I am a contractor and in the saloon business too.

Q Where is your saloon? A 2136 First avenue.

Q What street is that near? A 110th street.

Q What is your acquaintance with this defendant, how
did you come to know him? A I know this gentleman; I met
him lots of times on the street, and talked to him, and that
is all I know so far.

Q You just met him on the street and talked to him?
A Yes, sir.

Q Have you spoken to anyone about the defendant's good
character? A I know that gentleman for a long time; that
is all I can say.

Q Have you spoken to anybody about this defendant's
character? A Yes, sir.

Q To whom? A Well, a lot of people.

Q To whom, and when? A All the time I meet him, this

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gentleman, every day, because I am on the street.

Q I asked you if you had ever discussed this defendant's character with any other person? A What do you think I am, going to ask the people what kind of a man is this?

Q Then you didn't ask them? A No, sir. I know the man myself.

Q You didn't ask them? A I know the man myself; that is all I got to say. I know a lot of people that never had anything to say about the defendant; that is all I can say.

Q You didn't speak to anybody about his character?
A It wasn't my business to ask them what kind of a man is this; I know myself; but some people say he is a good man; that is all I know.

Q Did you ever talk to anybody about the defendant's character? A It wasn't my business to ask them.

(Question repeated.) A No, sir.

Q Then when you say he has a good reputation you are giving us only your own opinion, is that so? A Yes, sir.

Q Is that right? A No, sir; that is all right; I only can say it is all right, not my opinion.

Q You are telling us what you think of the defendant,

is that right? A Yes, sir.

Q That is your own judgment, isn't it? A Yes, sir.

Q You don't know what other people think of him? A Yes, sir.

Q What is that? A Because I can see him.

Q Do you know what other people think of him; you don't know, do you? A I can't make an examination of some people; I can say what I know.

Q You can say only what you know about him? A Yes, sir.

R E B U T T A L:

FANNIE ALDERISIO, a witness called on behalf of the people, in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. KRESSEL:

Q Are you related to Domenico Alderisio? A Yes, sir; he is my brother in law.

Q He is a brother in law of yours? A Yes, sir.

Q You are married to his brother, is that right? A Yes sir.

Q Do you know Mrs. Derosa? A By sight.

Q You saw her? A Yes, sir.

Q Is that the lady? A Yes, sir.

Q Do you remember seeing her on the 27th of December, 1904? A Yes, sir.

Q Where did you see her at that time? A 2076 First avenue.

Q In whose house? A In Domenico Alderisio's house.

Q Who else was present at the time? A Another Mrs. Alderisio, a sister in law of mine.

Q A sister in law of yours? Who else? A And Domenico Alderisio in the house.

Q Domenico, that is the complaining witness? A Yes, sir.

Q You had a conversation with her there, did you?

A Yes, sir.

Q Did she show you anything at that time? A Yes, sir.

Q What did she show you? A A gray coat, and a black soft alpine hat.

Q Did she bring that to your apartment at that time?

A She sent a child down with them; after she went upstairs; after the conversation; after the conversation she sent a child down with the coat and hat.

Mrs. Derosa testified this morning that she at no time

spoke to you; that she did not speak to you on the 27th of December, 1904; that she never spoke to the complaining witness Domenico Alderisio; that she never showed you or him any coat or hat, is that true? A Certainly not. She showed me the coat and hat.

CROSS-EXAMINATION BY MR. PALMIERI:

Q What did she do with that coat? A She sent a child down.

Q Do I understand you to say that the wife of this defendant took a coat, which was a gray coat, from her husband's apartments and showed the gray coat to you and to another lady

A Yes, sir.

Q You had a full view of it, is that right? A Yes, sir; I just knew what she was talking about.

Q You had a full view of the coat? A Yes, sir.

Q You are sure that it was a gray coat? A Why, certainly.

Q What became of the coat? A I don't know what became of the coat; he could have thrown it away.

Q Did the wife of the defendant show it to you?

A The child brought it up again.

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Q The gray coat was shown to you and then the gray coat was brought back to the apartments? A Yes, sir.

Q Where the police arrested the defendant? A Yes, sir. He brought it up in his own house again.

Q Where he was arrested? A Yes, sir.

LOUIS STANCREDI, a witness for the people, recalled in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. KRESSEL:

Q On the night that you arrested the defendant, did you search the apartments for a coat? A No, sir.

Q You did not? A No, sir.

Q Did you make any search of his apartments for anything? A We didn't search anything; we didn't see anything.

Q Did you tell the defendant when you arrested him what you were arresting him for? A Yes, sir.

Q He testified here, under oath, that you didn't tell him a word about what you were arresting him for; that you just told him to put on his clothes and come with you? A No sir.

Q You did tell him? A Yes, sir.

Q What did you tell him? A I told him he was arrested on the complaint of Alderisio.

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Q For what? A For shooting.

Q After you told him that you were placing him under arrest for shooting Alderisie what did the defendant say?

A He said that he didn't do anything; that this was spite.

Q Didn't do anything; this was spite work? A Yes, sir.

Q There has been some testimony here as to the fine character of the defendant, did you make any inquiry as to the defendant's reputation for peace and quietness; yes, or no? A No, sir.

Q Did you make any inquiries in the house where he lived? A Yes, sir.

Q With reference to his reputation for peace and quietness? A Yes, sir.

Q What did you find it to be, good or bad?

Objected to. Objection sustained.

BY MR. PALMIERI:

Q Since you didn't look for a coat, I want to know if you looked for a pistol? A No, sir, we didn't look for a pistol; we didn't want to disturb the house.

Q You didn't want to disturb the house?

A No, sir.

Q You thought it was quite some disturbance to look for a pistol, didn't you?

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Objected to.

Q You were two officers there?

Objected to. Objection sustained.

Q Where is the other officer? A He is here.

Q The other officer arrested this defendant, didn't he?

A Both; we were there at the same time.

Q Who was the man that made the arrest? A Mangone.

Q Mangone talked to him? A Yes, sir; he said, "which is the door?"

Q You spoke too? A Yes, sir.

Q You first knocked at the door? A Yes, sir.

Q You knocked at the door very gently, didn't you?

A Yes, sir.

Q Then the defendant said, "Who is there?" A Yes, sir.

Q And then you said "police?" A Yes, sir.

Q Then he said, "Come in," and opened the door, didn't he? A No, sir; he says "wait."

Q Then he put something on him? A Yes, sir.

Q Some trousers or something? A Yes, sir.

Q Then he opened the door? A Yes, sir.

Q Then he says, "What do you want?" A Yes, sir.

Q Then you told him what? A We told him he was under

arrest on the complaint of the tenant on the first floor Aldersie.

Q What did he say? A He said that was spite.

Q But he didn't say anything? A Yes, sir.

Q It must be some spite work? A Yes, sir.

Q Did he tell you whether it was on the part of the landlady? A He didn't say that; no, sir.

BY MR. KRESSEL:

Q Between the night of the 26th of December, the night of the shooting, and the 28th of December, did you find the defendant? A No, sir.

Objected to. Objection overruled. Exception.

Q Were you looking for him? A Yes, sir.

Q Were you around the premises 2076 First Avenue?

A Yes, sir.

Q How long were you around there between the 26th and the 28th of December? A Morning, night and day.

Q You were watching for him? A Yes, sir.

Q Did you see him enter the house before you placed him under arrest? A Yes, sir.

Q You saw him enter the house when? A The night of the 28th.

Q How long before you actually placed him under arrest?

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A About an hour.

Q So you allowed him to go up to his rooms? A Yes, sir, for his supper and go to bed.

Q Then you went up and placed him under arrest?

A Yes, sir.

Q Did you make any investigation in the hallway where this shooting is said to have taken place? A Yes, sir.

Q Did you find any bullets there? A Yes, sir, three.

Q Where did you find them? A I found one was imbedded in the hall.

Q When did you make an investigation? A We made it the same night that we made the arrest-- we investigated the shooting.

Q Where did you find them? A One in the hall in the rear of the building was imbedded in the door, and one on the floor.

BY MR. PALMIERI:

Q When you looked for these bullets, did you have a light, or did you look for them without any light at all?

A When I went in there was a light there.

Q Could you look for these bullets without turning on the light? A No, sir.

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Q Was it dark?

Objected to. Objection sustained.

Q Before recess you didn't say a word about looking for the defendant, did you, that is, before we adjourned for lunch? A I wasn't asked.

Q Tell me at what place you looked for this defendant; did you go to Dawson & Archer; did you go to 73rd street and 8th avenue? A No, sir; we heard that--

MR. KRUSHEL: He didn't finish his answer.

MR. PALMIERI: He completely answered my question by saying no.

THE COURT: What he heard would not be evidence

Q You knocked at these doors on the top floor?

A Yes, sir.

Q When you received no response did you attempt to force an entrance through any of these doors? A I didn't force in any door.

Q Is it customary where a man is charged with shooting another man, three times in a hallway, for you to allow him to go upstairs, eat his supper, and remain there for an hour?

Objected to.

Q Wouldn't you apprehend him as soon as you saw him, and bring him to the station house?

Objected to. Objection sustained. Exception.

Q Is that customary in your practice, officer, to allow a man who is charged with shooting another man, three times, to go upstairs and stay there an hour before you make an arrest?

Objected to. Objection sustained. Exception.

Q Did you return to this house yourself on the night of the 27th of December, 1904? A We seen him.

Q I ask you if you returned to those rooms? A No, sir.

Q Yes or no? A No, sir.

Q Did Officer Mangene go to those rooms, the other officer who has not been examined here? A No, sir.

Q Did you go to those rooms in the daytime? A No, sir.

Q Did you go to this defendant's rooms early on the morning of the 27th? A No, sir.

Q Did you go to this defendant's rooms on the evening of the 28th of December, 1904? A I was not home at that time.

Q Did you go to his rooms? A No, sir.

Q Did you know this defendant before that day?

A Yes, sir, I knew him.

Q Where did you see him? A He was described to me.

Q He was described to you? A Yes, sir.

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Q You only knew this defendant from the description given you? A Yes, sir.

Q By relatives? A Yes, sir.

Q By the barkeeper? A No, sir.

Q By relatives? A No, sir; by outside people.

Q By outside people? A Yes, sir.

Q Outsiders gave you the description? A Yes, sir.

Q Did you remain all night on duty there in front of the hall? A Yes, sir, all night.

Q You stayed there all day the following day? A Yes, sir.

Q You did the same thing the other night? A Yes, sir.

Q You always stayed in front of this place? A We stood about ten feet from the door, downstairs in the hall.

Q You always did that? A Yes, sir, we always did that-- not a far distance, we could see anybody going in and out.

Q You remained right there? A Yes, sir.

Q During recess you had a conversation with private counsel on the other side of this prosecution, didn't you? A No, sir.

Q Didn't you talk with him in this courtroom, when the jury and the Judge went out you talked with private counsel? A Yes, sir.

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Q That is true, isn't it, and I saw you?

A Yes, sir.

BY MR. KRESSEL:

Q Who is the private counsel? A I don't know.

Q Why did you answer "yes" when you were asked whether you talked with private counsel? A I don't know whether he is a counsel or not.

Q To whom did you speak? A To that gentleman over there.

Q You mean Mr. Pentecost? A Yes, sir.

Q From what Mr. Pentecost told you, were you influenced in any way in your testimony here? A No, sir.

Q Did he tell you what to say? A No, sir.

Q Besides watching the house to look for the defendant, did you do anything else to locate him? A Yes, sir.

Q What did you do? A We tried to get information where he was working.

THE COURT: Strike it out.

Q. What else did you do besides watching outside?

A We tried the best we could to place him.

Q Did you have anybody else looking for him? A Yes, sir, my partner and some stranger.

THE COURT: Strike that out.

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Q Do you know the janitor of the premises 2076 First avenue? A Yes, sir.

Q Did you inquire of him in reference to the defendant?
A Yes, sir.

BY MR. PALMIERI:

Q Who is your partner that investigated this case; what is his name? A Officer Mangone.

Q Is he here in court? A Yes, sir.

VIRGINIA ALDERISIO, a witness for the people, called in rebuttal, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. KRESSEL:

Q Where do you live? A 2076 First avenue.

Q You live at 2076 First avenue, is that right? A Yes, sir.

Q Are you a sister in law of Domenico Alderisio?
A Yes, sir.

Q You are married to one of his brothers?
A Yes, sir.

Q Do you know Mrs. Deressa? A Yes, sir.

Q Did you see her on the 27th of December, 1904?
A Yes, sir.

Q Did you have a conversation with her about the shooting? A Yes, sir.

Q Was Domenico Alderisio there at the time?

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A Yes, sir.

Q Was your other sister in law there at the time?

A Yes, sir.

Q During that conversation did Mrs. Derosa show you a coat? A Yes, sir, and a hat.

Q What sort of a coat was it? A It was a gray and ashy color.

CROSS-EXAMINATION BY MR. PALMIERI:

Q You lived downstairs on the first floor, is that right?

A On the second floor.

Q Mrs. Derosa, the wife of this defendant, went upstairs for a coat and brought it down for you to look at, is that right? A She sent the hat and coat by a little girl downstairs.

Q Her little girl? A Yes, sir; it was her daughter; she didn't bring it down herself.

Q Mrs. Derosa did? A Yes, sir.

Q Wasn't the wife present when the coat was brought down? A No, sir; the wife was away; she sent the coat back by the little girl.

Q Then the girl brought the coat down for you to examine and after you examined it the girl brought it upstairs again?

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A Yes, sir; she carried it upstairs back.

Q Into the rooms of the defendant, where he was arrested? A Yes, sir.

Q Then you were convinced that this defendant did the shooting after you saw the coat?

Objected to. Objection sustained. Exception.

Q To whom did you report this fact?

Objected to.

BY THE COURT:

Q Did you ever tell anybody about this? A No, sir.

Q You didn't tell anybody about it at all? A No, sir.

Q Didn't you tell the police? A No, sir, nothing about the coat.

Q So that the first time you ever said a word about the coat is to-day? A Yes, sir, the first time.

MR. KRESSEL: The people rest.

MR. PALMIERI: I notice the other officer is in court and he was not called.

THE COURT: Have you any other witnesses?

MR. KRESSEL: No, sir.

MR. PALMIERI: I will rest.

TESTIMONY CLOSED.

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