



A black and white photograph of a film clapperboard. The clapperboard has a black border with diagonal white stripes. The word "START" is printed in large, bold, black capital letters at the top. Below it, the number "2080" is handwritten in black ink. At the bottom, the word "CASE" is printed in large, bold, black capital letters. The clapperboard is slightly tilted to the right. On the right edge, there is a small, rectangular, light-colored object with a black and white striped pattern, possibly a marker or a piece of tape.

**START**

2080

**CASE**

**START**

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CASE #2080



I N D E X

	Direct	Cross	Re-direct	Re-cross
Henry M. Starr	2	10		

CASE #2080

THE PEOPLE VS. OWEN MADDEN.

Hearing of May 26th, 1915.

I N D E X

Witnesses	Direct	Cross	Re-Direct	Re-Cross
Roscoe C: Webb.....	14	..	..	..
Josephine Moore.....	22	..	..	..
Morris Otner.....	23	..	..	..
William Gavigan.....	34	..	..	..
James Francis Keith.....	39	..	..	..
William Francis Mott.....	50	69	84	85
William A. Jones.....	88	..	..	..
Margaret M. Everdeene.....	95	134	166	..

Thomas W. Osborne,  
Official Stenographer.

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THE PEOPLE VS. OWEN MADDEN.

Hearing of May 27th, 1915.

I N D E X

Witnesses	Direct	Cross	Re-Direct	Re-Cross
Arthur Stein.....	170	...	...	...
Patrick Flood.....	175	176	...	...
Freeda Horner.....	177	211	243	...
Louis Flosberg.....	248	251	251	...
Mary Marron.....	257	259	263	...
Vito Fasanella.....	263	265	270	271
Anthony Joseph Massari.....	271	273	277	...
Nicholas J. Ligorano.....	278	280	...	...
Thomas O'Neill.....	285	288	...	...
Mary O'Donnell.....	293	302	...	...
Anthony Romanello.....	319	322	...	...
James Santoro.....	328	...	...	...
James McCloskey.....	332	333	...	...

Thomas W. Osborne,

Official Stenographer.

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CASE #2080

THE PEOPLE VS. OWEN MADDEN.

Hearing of May 28th, 1915.

I N D E X

Witnesses	Direct	Cross	Re-Direct	Re-Cross
Thomas Fitzsimmons.....	336	340	...	...
Owen Lawlor.....	352	366	...	...
Thomas Fitzsimmons.....	...	387	...	...
Martin Vincent Ellis.....	388	397	...	...
David William Spencer.....	415	426	...	...
John C. Byrnes.....	437	445	...	...
Arthur Thomas Bieler.....	465	479	503	503
John V. McArdle.....	505	...	...	...

Thomas W. Osborne,  
Official Stenographer.

CASE #2080

THE PEOPLE VS. OWEN MADDEN.

Hearing of June 1st, 1915.

I N D E X

Witnesses	Direct	Cross	Re-Direct	Re-Cross
John V. McArdle.....	512	532	532	
Owen Madden.....	533	562	609	...
Arthur Bieler.....	609	611	...	...
Way O'Donnell.....	615	618	...	...
Henry M. Starr.....	622	...	...	...
Walter Rogers Deuel.....	625	...	...	...
Joseph Davidson.....	627	631	...	...

Thomas W. Osborne,  
Official Stenographer.

CASE #2080

COURT OF GENERAL SESSIONS OF THE PEACE,  
City and County of New York.

2512

-----x  
THE PEOPLE

against

OWEN MADDEN.  
-----x

Indictment filed 16th day of December, 1914.

Indicted for Murder in the First Degree.

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

For the People,

ASSISTANT DISTRICT ATTORNEY EDWARDS and

DEPUTY ASSISTANT DISTRICT ATTORNEY DEUEL.

For the Defendant,

CHARLES E. COLLIGAN, ESQ.

Tried before HON. CHARLES C. NOTT, Judge, and a  
Jury, on the 24th day of May, 1915.

(The defendant is arraigned at the bar).

THE CLERK: Owen Madden, if you desire to challenge an  
individual Juror, you must do so when he appears and before  
he is sworn. Do you waive the further giving of this notice?

MR. COLLIGAN: Yes.

(The jury are thereupon duly selected and sworn)

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MR. EDWARDS: If Your Honor please, counsel will agree that these three diagrams be received in evidence subject to correction. We will not use any of them at present except the one of the saloon, which I think the jury want to look at and get familiar with.

(The diagrams are marked in evidence People's Exhibits 1, 2 and 3).

HENRY M. STARR called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are an officer of the Municipal Police Force of this city? A Yes, sir.

Q And you have been for how long? A Five and a half years.

Q Do you know the location of Ottner's saloon, sometimes called Nash's cafe, northeast corner 8th Avenue and 41st street?

A I do.<sup>1</sup>

Q Is that in the county of New York? A Yes, sir.

Q Did you give your precinct, the 22nd? A Yes, sir.

Q Were you attached to that precinct in November, and particularly on the 28th of November last? A Yes.

Q Where was your post on the evening of Saturday the 28th of November? A On 8th avenue, from 40th to 42nd.

Q Did anything occur that evening while you were on that post to attract your attention? A It did.

Q When was it -- or, where were you at the time? A I was at

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40th street and 8th avenue, the southwest corner.

Q On the southwest corner, what, if anything, happened to attract your attention? A About 8:40 I heard some shots fired.

Q From what direction did the sound come? A They sounded kind of northeast from me.

Q What did you do when you heard those shots? A I ran up 8th avenue, on the west side of the avenue, to 41st street where I saw a crowd collecting.

Q Where did you see the crowd? A Northeast corner of 41st street and 8th avenue.

Q What is located on that corner? A A saloon.

Q What saloon is that? A Known as Nash's cafe.

Q Do you know who are the proprietors now, or were, on that day? A Ottner Brothers.

Q When you saw that crowd, what did you do? A I ran over to where the crowd was and ran to the side door and entered the side door of the saloon.

Q I show you People's Exhibit 1, the diagram of those premises -- as I hold it towards you now you are looking at the saloon from the 41st street side, this being 8th avenue here, as it appears on the diagram, and this being West 41st street, and this being the corner -- what door was it you entered? A This door here (indicating).

Q You entered that door? A Yes, sir.

Q You are now indicating the side door on 41st street near the rear of the barroom? A Yes.

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Q When you entered, did you go clear into the barroom? A Yes.

Q When you entered the barroom, what did you see? A I saw three or four men in there, in the barroom.

Q Did you see either of the proprietors? A Yes.

Q And any one else who belonged on the premises? A I saw the bartender.

Q Do you remember his name? A Gavigan.

Q Do you remember the name of the proprietor whom you saw?  
A Morris Ottner.

Q Did you have a talk with either of them? A I did.

Q Do you know the names of any of the other men you found in there? A Yes, sir, Mike Lemurra, or something like that.

Q McMurran? A McMurran.

Q Who else? A Cook I think -- I forget the names.

Q Do you recollect? A No, sir.

Q You don't remember the name? A No.

Q How many were in there altogether, counting Ottner and Gavigan? A There were four in the barroom.

Q Whereabouts was Ottner? A He was behind the bar.

Q Where was Gavigan? A He was also behind the bar.

Q Where were the other two men? A Standing at the end of the bar next to the rear.

Q Towards the rear? A Yes, sir.

Q That would be just about opposite the doorway through which you entered? A Yes, sir.

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

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Q Did you find anything else in the saloon? A Yes, sir.

Q What was it? A I found the impressions of shots in the ceiling.

Q Did you find anything else besides that? A I found a hat laying at the end of the lunch counter.

Q Which end of the lunch counter did you find that hat?  
A The rear end.

Q Did you take that hat into your possession? A I did.

Q Did you find any one in the saloon who had been injured at all? A No.

Q After you had your talk with Ottner and Gavigan and these other two men, did you then find anybody who had been injured?  
A Not in the saloon, no, sir.

Q What did you do after that? A I made a report of the shooting.

Q What do you mean by that? A Wrote a report about the place being shot up and glass broke in the door.

Q You have not said anything about that -- what do you mean by broken glass? A There was glass in the front door broken out.

Q I show you People's Exhibit 1 again? A This door here, the 8th avenue door.

Q The glass in one of the swinging doors of the corner door, the one opening on to 8th avenue as distinguished from the one opening on 41st street? A Yes, sir.

Q That is the one you refer to? A Yes.

Q The glass was broken? A Yes.

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Q How much was broken? A Pretty near the whole thing was broken out I guess.

Q About this report, where did you write that out? A In the saloon.

Q Then what did you do? A I went up 8th avenue to telephone it in.

Q Where was the telephone? A On 42nd street right near 8th avenue.

Q You did not have to cross either 41st or 42nd street or 8th avenue to reach it? A No, sir.

Q On your way there did anything happen? A It did.

Q What was it? A There was a man approached me.

Q Who was it, do you know? A Faunberger, I think.

Q Was it the newsman at the corner? A Yes.

Q Fausberg? A Yes.

Q Did he speak to you? A Yes.

Q After he had spoken to you, what did you do? A I went back to the hallway adjoining the saloon.

Q On which side of that saloon is that hallway? A The north side.

Q On the avenue or on the street? A On the avenue.

Q Can you point out the entrance on this diagram? A It is up here (indicating).

Q Where these steps are marked on the front of the diagram?  
A Yes.

Q Up this stoop? A Yes, sir.

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Q What did you do when you got there? A I came up the steps into the hallway and I found the body laying on these stairs -- stairs inside that lead up to the first flight.

Q You had to go in the street door and the inner door of the vestibule? A Yes, sir.

Q Where was the body? A He was sitting on the second step leaning with his back towards the north.

Q Back towards the north wall? A The north wall, and laying over on his arm.

Q What did you do when you found the body lying there? A I felt of his pulse.

Q Did you find any pulse? A No, sir.

Q Was he cold or warm? A He was warm.

Q Did you do anything else? A I immediately called an ambulance.

Q Where did the ambulance come from? A New York Hospital.

Q Did the doctor come with it? A Yes.

Q Did the doctor take the man away with him? A No, sir.

Q What did you do then? A He pronounced him dead --

Q Strictly speaking, you cannot say what he said -- he said something to you? A Yes.

Q And he left with the ambulance? A Yes, sir, he left with the ambulance.

Q What did you do with the body? A It was removed to the station.

Q In what? A Patrol wagon.

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Q Did you afterwards see that body again? A I did.

Q When? A Sunday morning.

Q Where? A At the Morgue.

Q Who was present? A Dr. Lehane.

Q Did you identify that body to him as the one you found?

A I did.

Q Was that body which you so identified to Dr. Lehane, the same body which you found, as you have described, on the evening of Saturday, the 28th, in the hallway? A It was.

Q Did you know the deceased by sight? A I did.

Q Did you know his name? A No, sir.

Q Did you learn what it was after his death? A Yes, sir.

Q What name did you learn it to be? A Patsy Doyle.

Q Did you afterwards see any of his friends? A I did.

Q Who? A Do you mean that night?

Q At any time? A Yes.

Q Who? A I saw his wife down at the court.

Q Did you see her with the body at any time? A No, sir.

Q Now when you took this body to the station house, did you there see Mr. Deuell of the District Attorney's staff? A I did.

Q What was done with respect to the clothing on that body that evening? A I helped take them off, with the assistance of Mr. Deuell.

Q The clothing -- when you took them off in the station house, was it then in the same condition as it was when you found the body? A It was.

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Q What did you do with the clothing after you had taken it off? A I marked each piece separate with a tag and tied it up in a bundle.

Q Where did you take that bundle? A I took it down to the District Attorney's office.

Q Did you leave it there? A I did.

Q Did you see that bundle again at the trial of John McArdle? A I did.

Q Did you there identify the clothing just as you tell us here, and tell the same story as you have to-day? A Yes.

Q I call your attention to certain clothing in a package and ask you to look at that and see if those are the same clothes you took off Doyle's body that night, and which you delivered to the District Attorney's office, and which you saw at the John McArdle trial? A Yes, sir.

Q You spoke of a hat which you found at one time, I show you this hat and ask you if that is the hat which you found in the position you have described, in Nash's saloon that evening? A Yes.  
BY THE COURT:

Q What did you do with the hat? A I took it to the station with the body.

Q You took it with you when you first left the saloon? A Yes

Q Did not leave it there? A No, sir.

BY MR. EDWARDS:

Q Did you deliver that also to the District Attorney's office with the package of clothing? A Yes, sir.

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(The hat is marked for identification People's Exhibit 4)

MR. EDWARDS: I can offer the clothing in evidence --  
the hat simply for identification.

MR. COLLIGAN: No objection.

THE COURT: Yes.

(An inside coat is now marked People's Exhibit 5 in  
evidence).

(The trousers are marked People's Exhibit 6 in evidence--  
the overcoat is marked People's Exhibit 7 in evidence).

(A set of underclothing, shirt, collar and belt and a  
pair of shoes are marked as one exhibit for identification,  
People's Exhibit 8).

CROSS-EXAMINATION BY MR. COLLIGAN:

Q Did you see the defendant Madden on that night? A No.

Q Did you ever see him before the shooting? A I have.

Q But you did not see him on the day of the shooting? A No.

BY MR. EDWARDS:

Q I forgot to ask you whether when you found the body,  
Doyle's body, whether you found his overcoat buttoned or unbutton-  
ed? A Unbuttoned.

BY THE COURT:

Q Did you observe any wounds in the body? A After we got  
it to the station, yes.

Q Where were they? A They were on the left side principal-  
ly, I think --

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BY THE COURT:

Q Indicate to the jury where the wounds were that you observed, as you observed them? A I guess it was the right side.

(The overcoat of the deceased, People's Exhibit 7 in evidence, is now shown to the witness).

Q Do you recollect where they were?

BY MR. EDWARDS:

Q Do you recollect about where they were? A About here they were (indicating).

Q Will the overcoat help you any? A Yes, sir -- on the right side (examining the overcoat).

Q Do you remember how many there were that you saw, when you stripped the body? A About three or four.

Q You don't remember absolutely accurately, but your recollection is there were three or four? A Three or four.

Q Were they all on the right side? A Principally, yes.

BY MR. COLLIGAN:

Q You were standing on which corner of that avenue? A The southwest corner.

Q Of what? A 40th street and 8th avenue.

Q You heard the shots at the northeast corner? A Yes.

Q Of 41st street, that is the next street? A Yes.

Q How soon did you reach the cafe after you heard the shots?

A A couple of minutes.

Q It took you a couple of minutes to go from 40th street to 41st street on 8th avenue? A You take Saturday afternoon, and

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the traffic is very congested there -- you could hardly get across the street -- so I ran up on the west side and then crossed over to the northeast corner.

Q Is it congested on Saturday evening? A Very much so.

Q You heard the shooting about 8:40? A About that.

Q You know Madden? A I do.

Q Did you see Madden there? A No.

THE COURT: Gentlemen of the Jury, the law requires the Judge in a criminal case at each adjournment of court, to caution the jury not to form or express any opinion as to the guilt or innocence of the defendant until the case is finally submitted to the jury. As I shall have to do that upon each occasion, you will hear it several times, and sometimes from the mere repetition of that admonition of warning, it may appear to a jury a more or less perfunctory matter, but it is really a matter of importance, for the law requires a Judge to do that, for two reasons: First, that the jury who are the judges of the facts, may preserve a judicial attitude of mind throughout the case -- that is to say, so that while the evidence is being put in, the jury will not assume a partisan attitude in making up their minds, before the case is submitted to them, and then go out in the jury room as partisan, but, so that the jury may simply hold their judgment in suspension and store their memory with the facts, so that when they go out to the jury room to confer, they may go there in a strictly judicial state of mind, which of course is an im-

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portant matter. There is nothing can be more important in a criminal trial than having the judges of the fact act in a judicial frame of mind. Also, in numerous cases, juries have lost a great deal of valuable time in the jury room through failure of some one of their number or more, to observe that warning, because you can easily see that if a juror makes up his mind early in the case and takes side and then goes into the jury room not with the idea in his mind to confer with his fellow jurors and reach an honest verdict but to impose his preconceived opinion upon them whether or no, that that does not make for harmonious conference or an early or just agreement. Upon future adjournments I shall not go over these reasons again. I simply tell them to you now, so that you may appreciate the importance of trying to observe that requirement of the law. I shall have to adjourn now until Wednesday morning for the reason that the Judiciary Committee of the Constitutional Convention has requested me to come up there to-morrow and confer with them on certain matters now pending before them. Of course that is a matter affecting the public business in an important degree, and I must therefore go there. We will therefore take an adjournment until 10:30 Wednesday. In the meantime do not form or express any opinion as to the guilt or innocence of the defendant until the case is finally submitted to you.

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New York, May 26th, 1916,

Trial resumed.

R O S C O E C. W E B B, M.D., called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence New York Hospital).

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are a physician and surgeon? A Yes, sir.

Q You are at present where? A New York Hospital.

Q How long have you been there? A One year.

Q Were you with the New York Hospital on the 28th of November, 1914? A Yes.

Q Do you recollect answering an ambulance call on that evening to 41st street and 8th avenue? A Yes.

Q When you reached that place, on the northeast corner as I recollect it, what did you find? A I found a man there, dead.

Q Do you recollect where you found him? A Yes, sir, he was in the -- the corner building is the saloon and he was in the doorway

Q In the doorway? A In the building next to the saloon.

Q It was just at the north side of the saloon on 8th avenue, in the doorway, in the vestibule? A Yes, sir.

Q Did you make an examination of the dead man you found there at that time? A I examined him to find out if he was dead.

Q What did you ascertain in that respect? A That he was dead.

Q Was he called to you by any name there? A Patsy Doyle.

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Q After you found he was dead, did you remain there or go back to the hospital? A I left immediately.

Q That was all you had to do with the deceased? A Yes, sir.  
(No cross-examination).

T I M O T H Y D. L E H A N D, M.D., called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are a practicing physician and surgeon, duly admitted and licensed to practice in the city of New York? A Yes, sir.

Q And you have been for how many years? A March 1893.

Q During a part of that time at least you have been what is termed a Coroner's physician in this county? A That is right.

Q For how many years? A Close to twelve.

Q During your service as Coroner's physician, have you had occasion to perform many autopsies? A Quite a few.

Q Can you give us any idea of how many? A No, I never kept tabs on them.

Q Have you performed autopsies frequently or infrequently during those years? A Three or four a day.

Q Did you perform an autopsy on a body identified to you as that of Patsy Doyle or William Moore? A Yes, sir, I did.

Q Where and when? A On the 28th of November, 1914 -- my notes you have there (indicating).

Q Now you have the notes? A Yes.

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Q Was it Saturday or Sunday? A On Sunday.

Q That would be the 29th? A Yes, sir, about 10 A.M.

Q Where? A At the Morgue in the city and county of New York, Borough of Manhattan.

Q Where is the Morgue located? A At that time, East 26th street.

Q By whom was the body identified to you? A By Officer H.M. Starr of the 22nd precinct.

Q By what name? A By the name of William Doyle.

Q Now, will you tell us what the condition of the body was at that time as you observed it? A The deceased was about twenty-two years old, five feet three inches in height, slim build, weighed about 140 pounds, muscular, well nourished, black hair, smooth face, gray eyes, good set of teeth; one in the upper jaw had a gold cap.

Q Can you state which tooth that was that had the gold cap?

A I think it was the right canine.

Q Which is that, just to the right of the center? A Yes, sir.

Q In front of the mouth? A Yes, sir. The deceased had four bullet wounds on his body.

Q Will you tell us, and describe the location of those bullet wounds as you saw them externally, before the autopsy?

A Bullet wound No. 1 was on the right side --

Q When you number these bullet wounds, those are numbers for your own convenience? A Yes, sir.

Q It does not mean to indicate that one was inflicted be-

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fore the other? A No.

Q But just to identify them? A Yes, sir. I take them from above downwards. Bullet wound No.1 was located on the right side of the chest, upper border, on the anterior surface, one inch to the left of the base of the axilla.

MR. EDWARDS: May we have the officer stand up here so that the doctor may show the jury where those wounds were.

THE WITNESS: That was a superficial wound -- that was the point of entrance (indicating), and here the point of exit.

BY MR. EDWARDS:

Q Where your finger and thumb now are? A Yes.

Q Was the point of entrance in front where your finger is?

A Yes.

Q And the point of exit towards the rear where your thumb is? A Yes.

Q That particular wound -- you speak of it as a superficial wound -- what did it penetrate, if anything? A Penetrated the flesh and the muscle.

Q Did the bullet pass out? A Yes.

Q Did you find that bullet? A No.

Q Now proceed? A Bullet wound No.2 was located on the right side of the chest, two inches below the right nipple, fracturing the sixth rib -- about there (indicating).

Q About where your middle finger is now? A Yes, sir.

Q Just to the right of the median line? A Yes, sir -- passing

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through the right lobe of the liver, taking a downward course, fracturing the sixth rib, and it became lost in the spinal column, the vertebrae -- became shattered.

Q The bullet became shattered? A Yes.

Q Did you find that bullet or any part of it? A No.

Q Now the next wound? A Bullet wound No. 3 was located on the right side of the chest, three inches above and one inch to the right of the umbilicus, that is the median point -- the belly button -- three inches above and one inch to the right -- making several perforations of the small intestines, and found at a point directly the opposite, on the left side, beneath the crest of the ilium or hip bone. That bullet was found by me and removed.

Q I show you a bullet and I ask you if you have seen that bullet before? A Yes, I have.

Q Is that the one you have just now described finding? A Yes  
Offered in evidence -- received and marked People's Exhibit 9.

Q Proceed with the next? A Bullet wound No. 4 was located on the right leg, in the mid-tibia region, on the inside (indicating) -- the bullet travelled directly the opposite, and was removed from the outer side.

Q Did you find that bullet? A I did.

Q I show you another bullet, and I ask you if you have seen that before? A Yes.

Q Is that the one to which you now refer? A Yes, sir, it is.

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Offered in evidence -- received and marked People's Exhibit 10.

Q That covers all the wounds you found? A Yes.

Q I notice you indicate it, in indicating this bullet wound of the leg, a point between the ankle and the knee? A Yes.

Q I want to show you the trousers in evidence in this case, and ask you if they in any way refresh your recollection with respect to the exact location of that wound? A They do -- they did in the previous case. I remember I saw them.

Q You saw them in the previous case? A Yes, sir, and the point was between the knee and the hip.

Q Will you start now with bullet wound No. 1, and tell us, if you can tell, having in mind the point of entrance and exit, the direction of that bullet wound? A Yes, sir, it was fired obliquely.

Q Assuming that you are the man that was hit, from which side to which side? A From right to left or --

Q That would be from the left? A To my right. The party who did the shooting was standing obliquely.

Q To the left side of the man who was shot? A Yes, sir.

Q The bullet passing from the right hand side of the man who was hit towards his left hand side? A Yes, sir --

Q Towards his right hand side I mean? A Yes, sir.

Q From left to right? A Yes, sir.

Q Take the second wound, the wound near the right nipple, what was the direction and course of that bullet, as you found it during your autopsy? A That was from directly in front.

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Q And passing in practically a straight line towards the rear of the body? A Yes, sir.

Q Take the third wound, which was above and to the right of the umbilicus? A That was from right to left.

Q Of the man who was hit, from his right towards his left? A Yes.

Q And backwards -- was it upward or downward? A Slightly downward and backwards to the point opposite here (indicating).

Q Now this fourth bullet wound, the one in the leg, that was between the hip and the knee, on the right leg, I believe? A Yes.

Q Did that enter in the center or from either side? A It entered from the inner side of the leg, and was found on the opposite side.

Q That would be it entered -- it entered from the left side of the front of the right leg, and you found the bullet at the right of the rear of the right leg? A Yes, sir.

Q Can you state as the result of your autopsy which you have described to us here -- or first, was there anything else you found during your autopsy that you have not told us of? A The other organs were practically normal with a slight change in the kidneys, which had the appearance of Bright's -- chronic diffuse nephritis.

Q Did you observe any other condition? A The abdomen was filled with blood.

Q Can you state with reasonable certainty in your experience what that blood came from? A Yes, sir.

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Q Will you? A From the bullet wound of the abdomen, making the several perforations in the small intestines, penetrating one of the vessels which goes to supply the small intestines.

Q That was internal hemorrhage caused by the bullet? A Yes.

Q Was there any hemorrhage from this bullet wound that penetrated the liver? A No.

Q Can you state from your autopsical findings as you describe them, and from your experience, with reasonable certainty, what was the cause of this man's death? A I can.

Q Will you do so please? A Abdominal hemorrhage due to bullet wounds of the abdomen.

Q When you refer to bullet wounds of the abdomen, which of those four wounds you have described here do you have in mind?

A The bullet wound No.3.

Q Alone? A That would be the principal cause, yes.

Q Can you state with reasonable certainty from your experience and observations at the autopsy, what the effect of bullet wound No.2 would have been, that is the one near the nipple?

A Why, that would penetrate the liver, and if it had not been due to adhesions it had thrown out, you might have got a certain amount of hemorrhage.

Q Can you state whether or not that wound had anything to do with the man's death? A Hardly -- it might have caused a condition which is known as shock -- but hardly.

Q The third wound, the wound near the umbilicus was, in your opinion, the principal cause of death? A Yes, sir.  
(No cross-examination).

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J O S E P H I N E M O O R E, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 67 West 101st street).

DIRECT-EXAMINATION BY MR. EDWARDS:

Q Were you married to William Moore? A No, I was not.

Q How long did you live with him? A I lived with him for five years.

Q Was he known by any other name than William Moore? A Yes, sir, he was going by the name of Patsy Doyle.

Q Was it his custom to frequent the saloon known as Nash's cafe on the northeast corner of 41st street and 8th avenue? A I know he used to go in there.

Q Were you living with him at the time he was shot? A No, I was not.

Q How long had you separated from him at that time? A I was away from him about a month and a half or two months.

Q Did you see his body after he was shot? A No, I did not-- I did not see his body until I went down to the Morgue to claim it

Q That was what I mean -- some time after he was shot you did see the body? A Yes.

Q Where did you see it? A Down in the Morgue.

Q That body which you saw there at the Morgue, was it the body of the man whom you knew as William Moore or Patsy Doyle, with whom you had lived for five years? A Yes, sir.

Q Did you attend his funeral? A Yes, sir.

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Q And saw that body buried? A Yes, sir.

Q And that was the same body? A Yes, sir.

(No cross-examination).

M O R R I S O T N E R, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:  
(Residence 914 Simpson Street).

DIRECT EXAMINATION BY MR. EDWARDS:

Q What is your business? A Saloon.

Q Where is your saloon located? A 640 Eighth Avenue.

Q What street is that? A 41st street.

Q What corner of the street and avenue? A Northeast corner

Q Is that saloon of yours sometimes called Nash's cafe? A Yes

Q Are you the sole owner? A Yes.

Q Or some of your brothers interested with you? A Two of us, me and a brother of mine.

Q What? A Two brothers.

Q Two brothers and yourself? A No, me and another brother.

Q How long have you owned that saloon? A About twenty-eight months.

Q Did you own it and operate it on the 28th of November?

A Yes.

Q Were you in the saloon that evening yourself? A Yes, sir.

Q Who else was on duty with you that evening? A William Gavigan.

Q What were his duties? A Bartender.

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Q Were you attending bar also? A I helped along if it was busy.

Q What time that afternoon did you go on duty? A Around 3 o'clock, I think.

Q Were you there continuously from 3 o'clock on? A Yes.

Q Were you in the saloon at the time that Doyle was shot there? A Yes, sir.

Q Did you know Patsy Doyle? A Yes.

Q Was that the only name you knew him by? A The only name I knew him by.

Q Where did you see him ordinarily? A On that day?

Q Where were you accustomed to see Doyle? A In the saloon.

Q Did he come in there frequently? A Yes, sir, he used to come in often.

Q About how often would you say? A Around every day.

Q Did you see him on the afternoon of November 28th, Saturday? A I see him around 5 o'clock, that was the first time I saw him that day.

Q At that time was any one else with him? A He came in all by himself.

Q How long did he remain at that time? A He remained there until after 8 o'clock.

Q Now, did you see anybody else with him at any time before 8 o'clock? A Before 8 o'clock?

Q Yes? A I saw he was talking to William Mott and Jimmy Keith.

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Q Who is Mott? A He is a sailor.

Q Who was Keith? A A friend of them.

Q A friend of what? A A friend of Mott's.

Q And of whom? A Patsy Doyle.

Q Do you know Margie Everdene? A Yes, sir.

Q Did you see her that evening? A I saw her around eight o'clock.

Q Where did you see her? A She came in the side door into the back room.

Q That is the door on 41st street? A Yes, sir.

Q That comes into an inside vestibule with a door opening into the barroom, into the back room? A Yes, sir.

Q When she came in, what did you see happen? A First a fellow came in and called out Willie Mott -- he said "Somebody wants to see you outside." He went out and then he came in with her together, and they went in the back room.

Q What happened? A Then Willie Mott came out in the barroom and called Patsy Doyle into the back room and had some conversation between them. I did not hear that.

Q How long were they in there should you say, at that time?

A May be five minutes.

Q Then what happened? A Then they came out and the girl came out with them, and she went over to the telephone and called somebody up on the phone.

Q Where was the telephone? A Telephone right across the way from the end of the bar, near the back room.

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Q Where with respect to the lunch counter? A Right behind the lunch counter where you go in.

Q Now you say the girl, Margie Everdeene, called up a number? A Yes.

Q Who was with her? A Mott and Patsy Doyle.

Q Who was Mott? A The sailor.

Q Willie Mott, the sailor? A Yes.

Q After she called up the number, what happened? A Then Patsy went over and talked through the phone.

Q He talked through the phone? A Yes.

Q Can you tell us how long after eight this was? A Must have been maybe about ten minutes after eight or so.

Q How long did that conversation continue? A Maybe five minutes or a few minutes more, I couldn't say.

Q What happened then? A Then the girl went -- they went in back, in the back room, and a few minutes after Patsy Doyle went over to the phone and put in a nickel, was going to call somebody up, and somebody came to the front door leading from 41st street to the saloon, and called him out and he went out.

Q Did you see what had become of Jimmy Keith at that time?

A I couldn't tell you what became of Jimmy Keith at that time. I don't remember that. I couldn't tell you what became of him at that time.

Q Do you know where Mott was at that time? A He was in the saloon at that time.

Q How long was it after that before you saw Patsy Doyle come

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back again? A Must have been -- maybe about fifteen or twenty minutes.

Q When he came back again who, if any one, came with him?

A He came in by himself. William Mott went over to him and he was talking something to him.

Q Did you see Jimmy Keith then? A I couldn't remember -- I couldn't tell you that, I don't remember.

Q Do you know whether or not Mott and Keith were in the saloon or out of the saloon during those fifteen minutes that you think Doyle was gone? A Well, William Mott was in and out during that time in the saloon, walking out and coming in again, but Keith I couldn't tell you, I don't remember.

Q When did you next see Keith, so far as you now recollect?

A Right before the shooting.

Q Did you see Mott then too? A Yes.

Q While Doyle was away, did anything happen? A I seen two fellows coming in and they went to the front -- came in from the front door from 8th avenue and went through the saloon and looked into the back room and then they went out again, and as soon as they went out, Patsy Doyle came in, and Willie Mott went over to him and was talking something, and then they went out together and then I saw the same two men with two more come in-right after them Patsy Doyle came in and a shot was fired.

Q Did you see who fired that shot? A Patsy Doyle fired that shot.

Q Were you looking at him at that time? A Yes.

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Q Where was he at that time? A Coming in from 8th avenue by the front door.

Q That front door is on the corner with a swinging door on 8th avenue side of the corner, and on the 41st street side? A Yes.

Q Which of those two doors did Doyle come in? A Through 8th avenue.

Q At the time Doyle came in, where were those other men?

A They were just walking towards the back room.

Q What did they do when Doyle fired this shot? A I couldn't tell you nothing, because when I seen the first shot I got so excited I run into the back room and didn't see nothing no more.

Q Did you run in there quickly, did you hurry? A Yes.

Q Did you hear anything? A I heard shots, and I heard the crash from a glass that got broke.

Q Can you tell us how many shots you heard? A I should say about four or five shots, I think.

Q What I want to get at, did they go off all at once or were they separated? A They came together, one after another, in one crash.

Q How long after the first shot did you hear the next one?

A Right after, as soon as I ran in -- I heard shots when I was running in, but I didn't see who fired them.

Q Did you see who fired any of the shots except the first one? A No.

Q Then what happened next? A Next, when everything was quiet, I came out to the barroom.

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Q What did you find there when you came out? A I found the bartender, William Gavigan, just picking himself off the floor behind the bar.

Q What else did you see? A Then the officers came in.

Q Who else was in the barroom when you got back there after the shooting? A When I came back, I saw the bartender picking himself up and then I saw after a fellow by the name of Hagan and Lefty Brennan, but when I came out I did not see him -- I don't know where they go -- I was excited yet, but I think they must also be in front of the bar laying on the floor -- I think.

Q Where were they before the shooting? A They were in front of the bar where I was standing -- I was just talking to them before the shooting.

Q Before Doyle came in and shot, can you tell us who was in the barroom then? A I can tell you a few names, but not all.

Q Tell me how many persons were there? A About between ten and fifteen people.

Q Tell me the names of those whom you now recollect?

A Hagan, Lefty Brennan and a fellow by the name of McMullen.

Q What is his first name, do you know? A I don't know -- call him Mack.

Q Who else was there? A William Mott was there and two fellows working in a laundry, but I don't know their names -- and then the next I cannot mention.

Q Did you see Jimmy Keith there? A Yes, sir, he was there.

Q Whereabouts was he, if you remember? A I could not point

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out any place. He was in the barroom.

Q You spoke of seeing two men come in and walk through the barroom and look into the back room and go out again -- how long was that before Doyle came in? A Doyle came in right after they went out.

Q And through what door did Doyle come in at that time?

A He came in through the front door.

Q Eighth avenue side or 41st street side? A I couldn't tell you which side.

Q But from that corner entrance? A Yes.

Q From what door did Mott come in if you recollect? A Mott was coming in and out through a different door from them.

Q Do you recollect whether Keither came in just before that or not? A No.

Q That was Saturday night and the saloon was pretty full?

A Yes.

Q Many people in the back room? A I think there was about four or five people in the back room.

Q And fifteen -- as well as about fifteen in the front part?

A Yes, sir, in the bar.

Q How long a time did this shooting take from the time of the first shot until the shots were over -- quick or slow? A Quick -- a few seconds or a few minutes -- I think -- all at one time.

Q Did it seem to you to take a very short time or a very long time? A I was too excited to tell you how long it took, but I think it took very little -- not long.

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BY THE COURT:

Q Did you see Doyle fire the first shot? A Yes.

Q In what direction did he fire it? A Coming in from the door, fired right up to the ceiling.

Q Fired the shot at the ceiling? A Yes.

Q How did he hold his hand? A Must have held his hand up.

Q You saw it? A I saw the fire going up to the ceiling.

Q He did not fire at anybody, but he fired at the ceiling?

A Yes, sir, I saw the flash going up to the ceiling.

BY MR. EDWARDS:

Q After this shooting was over, did you look about your barroom to see if there was any bullet holes or not? A Yes, sir, one bullet hole in the ceiling and one mark.

Q Whereabouts was the bullet hole in the ceiling, towards the front or rear? A Towards the front.

Q And where was the mark? A In the middle of the barroom, middle of the lunch counter, between the lunch counter and the bar.

Q That was on the ceiling too? A On the ceiling.

Q That did not go through the ceiling, but had a mark? A Yes.

Q As if a bullet had hit it and gone out? A Yes, sir.

Q Did you find any other bullet holes or marks towards the rear of the saloon? A No.

Q Were there any marks towards the front of the saloon?

A No, I did not find any other marks at all.

Q What was the condition of the doors on the 8th avenue en-

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trance? A The glass got broke in one door.

Q Which door was that? A On the 8th avenue entrance.

Q The 8th avenue side of that corner entrance? A Yes, sir.

Q Here is a diagram, People's Exhibit 1, of your saloon -- this is 8th avenue here and this is 41st street here (indicating)?

A Yes.

Q So that that is north and that is south, and this is east coming towards me and west is towards you? A Yes, sir.

Q Here are the doors on 8th avenue, on the corner, and here are the doors on 41st street on the corner? A Yes, sir.

Q Here are the stairs going up in the vestibule, and here is your bar, your front bar, and there is the back bar with the door into the back room behind the bar, and here is the side door on 41st street coming into this vestibule with a door into the bar-room and a door into the back room, and here is the other door in the back room from the barroom -- can you tell us on that diagram about where you were when the first shot was fired? A I was right there (indicating).

Q You were towards the rear end of the bar? A Yes, sir.

Q How did you get into the back room? A Right through here (indicating).

Q You say right through here -- you indicate? A Through this door (indicating).

Q Through the door right behind the bar? A Yes, sir.

Q Can you show us which door on that 8th avenue -- on that corner entrance, was shattered, where the glass was broken?

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A Right here (indicating).

Q You are now indicating the right hand door of two swinging doors on the 8th avenue side, as you go out of the saloon? A Yes.

Q That is your recollection now? A Yes, sir.

Q How badly broken was that glass? A All out -- glass smashed up in pieces -- all out of the door.

Q When you came in after the shooting, did you see Patsy Doyle? A No, I did not.

Q Did you see where he had gone? A No.

Q When the police officer came in, what did you see him do?

A They came in and looked around and asked what happened. I said "Shooting going on here" --

Objected to.

Q Do not say what you said -- did he come in and talk to you and ask you questions? A Yes.

Q After that did you at any time see Patsy Doyle? A No, sir, I did not see him until in the station house.

Q That was after he was dead? A After he was dead.

Q I want you to indicate to me on this diagram, People's Exhibit 1, where your telephone was -- this is the lunch counter here (indicating)? A Right there.

Q And the telephone is right in the corner as you go in behind the end of the lunch counter? A Yes.

Q Indicating a point about half an inch from the inner wall of the vestibule at 41st street door, right opposite the opening through which you pass to go behind the lunch counter? A Yes.

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Q Those bullet holes in the ceiling up there still show, don't they? A Yes.

Q In the same place they were that night? A Yes.

(No cross-examination).

W I L L I A M G A V I G A N, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 1304 Bergen Street, Brooklyn).

DIRECT EXAMINATION BY MR. EDWARDS:

Q What is your business? A Bartender.

Q Where were you employed on Saturday, the 28th of November, 1914? A Otner Brothers.

Q Where? A 41st street and 8th avenue.

Q The last witness who just preceded you on the stand is one of your employers? A Yes, sir.

Q Do you remember the evening of that day when Patsey Doyle was shot? A Yes.

Q What time did you go on duty that evening? A About half past seven or twenty minutes to eight.

Q Were you tending bar at the time? A Yes.

Q Where were you standing when the shots were fired?

A Standing at the register.

Q What sort of a register do you mean? A Cash register.

Q Was that on the back bar? A Yes, sir.

Q Were you facing the back bar or facing the saloon? A I was

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Q Were you tending bar at the time? A Yes.

Q Where were you standing when the shots were fired?

A Standing at the register.

Q What sort of a register do you mean? A Cash register.

Q Was that on the back bar? A Yes, sir.

Q Were you facing the back bar or facing the saloon? A I was

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facing the back bar.

Q What did you hear or see? A When I was ringing up I heard a shot fired.

Q Did you see who fired it? A No, I turned around quick and I saw three flashes -- then I went down behind the bar.

Q Where did those three flashes come from? A Must come from a gun, I guess.

Q Who were holding the guns? A I don't know.

Q Were the three flashes from one gun or three flashes from three different guns?

MR. COLLIGAN: I object. He has stated he does not know

THE COURT: He saw three flashes. I will allow him to state if he saw them all together.

BY MR. EDWARDS:

Q Did you see them all at the same time? A I saw the three right in succession.

Q Whereabouts were the flashes when you saw them? A They were outside the ~~bar~~ bar.

BY THE COURT:

Q What part of the room? A Towards the door.

Q Towards which door? A The door on the 8th avenue side.

BY MR. EDWARDS:

Q Is the cash register near the rear of the bar or the front or the middle of the bar? A Near the rear.

Q You are standing on 8th avenue now as you look at this diagram? A Yes.

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Q This is 8th avenue here and this is 41st street running east (indicating)? A Yes.

Q This is the saloon with these heavy black marks? A Yes.

Q And here is the 8th avenue door on the corner entrance?

A Yes.

Q Here is the 41st street door on the corner entrance? A Yes.

Q Here is the 41st street rear door, the family or rear entrance? A Yes.

Q Here is the front bar? A Yes.

Q And there is the back bar? A Yes, sir.

Q Here is the door into the back room -- can you indicate on that where the cash register was? A I was standing right here at the cash register (indicating).

Q You are indicating a point just under a red and yellow disc marking a light fixture, on the rear of the back bar? A Yes, sir.

Q Your back was towards the saloon proper? A Yes.

Q When you say these flashes that you saw were towards the 8th avenue door, you mean they were between you and the door?

A Yes, sir.

Q Can you tell us about what part of the saloon they were in whether it was the rear part or the central part or away up in front? A It was about near the corner of the lunch counter, nearer to the door.

Q That is the corner of the lunch counter towards the door?

A Yes, sir.

Q Could you see in which direction those flashes went? A No,

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I could not.

Q What did you do when you saw them? A I went down behind the bar.

Q How long did you remain there? A I should think about thirty seconds.

Q Did you hear anything while you were behind the bar? A I heard some more shots, and then I heard some glass fall.

Q Then what happened? A Nothing more.

Q Did you hear any people doing anything at all? A No, sir.

Q Did you notice where Doyle was when you saw these flashes?  
A No, sir, I could not say.

Q You say you think you stayed there about thirty seconds down behind the bar, and then what did you do? A Then I got up.

Q When you got up, what did you see? A I did not see anything, there was not anybody there.

Q The saloon all cleaned out? A Not a soul in it but myself

Q How many had been there before you heard the shot?

A There were four in front of the bar, and the boss was standing at the end of the bar.

Q Any more in the barroom? A One man I saw when I was getting down behind the bar, McMullen.

Q Where was McMullen? A He was outside of the bar, at the curve.

Q At the end or on the long front bar? A On the end.

Q Which end? A Towards the door, 8th avenue side.

Q When you say the end -- A I mean right here (indicating)

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Q Right at the end of the bar, the 8th avenue end of the bar? A Yes, sir.

Q Not in front? A No, he was going down outside here (indicating).

Q What do you mean by that? A He stooped down.

Q When the shot went off? A Yes.

Q That was Saturday night? A Yes.

Q A good many people in the saloon? A There were four people we were waiting on in front of the bar.

Q There is a good deal of space in there not in front of the bar, were there any other people in there? A I don't remember seeing any.

Q How about the back room? A Nobody there that I know of.

Q You don't know if there was or not? A No, I don't know.

Q Did you know all those people in the bar? A I knew three.

Q You say there were only four? A That was all I know.

Q Which ones fired these shots? A None of the ones I know.

Q Then there were others there you didn't know? A They came in while I had my back turned to them.

Q But they were there when the shots were fired? A I suppose so.

Q You did not know any one whom you saw near the flashes? A No.

Q Were you there when the officers came in? A Yes.

Q Where did you see Otner next, after the shooting? A After the shooting he came out of the back room.

Q Did you see where Doyle went after the shooting? A No, I

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did not see.

Q Did you see his body at all? A I saw him in the hall afterwards.

Q Up in the hall of the building? A Yes, sir, in the vestibule --

Q How long after did you see him there? A About ten or fifteen minutes.

Q Who was there with him? A A lot of people there then, the hall was full.

Q You had known Doyle how long? A A couple of months.

Q How long had you been working there? A A little over a year.

Q During those two months he had come in there frequently?

A Yes, sir, the last few months.

Q That is a pretty popular corner for a saloon? A A pretty good corner.

Q Do you have both white and colored people there? A Yes.

Q Men and women? A Yes.

Q Do a pretty good business? A Yes, pretty good.

(No cross-examination).

JAMES FRANCIS KEITH, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 404 East 18th street).

DIRECT EXAMINATION BY MR. EDWARDS:

Q Are you working? A Not at present.

Q When were you last employed? A Five months ago.

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Q Where? A McNelty Brothers.

Q After you were employed there you were in the House of Detention for some time? A Yes.

Q For how long? A One hundred and five days.

Q Then you testified in the John McArdle case? A Yes.

Q Then you were released from the House of Detention? A Yes.

Q Do you remember when that was, how long ago? A About two months ago.

Q Since then have you been able to find any employment? A No.

Q Have you ever been convicted of any crime? A Yes, sir.

Q When was the first time? A 1907.

Q What was that conviction for? A Burglary.

Q What was your sentence? A To Elmira.

Q How long did you remain there? A Fourteen months.

Q Were you convicted after that? A Yes.

Q Of what? A Petty larceny.

Q What did you get then as a sentence? A Three months in the Penitentiary.

Q After you left the Penitentiary, where did you go? A Back to Elmira for violation of the parole.

Q On your first conviction? A Yes.

Q No other conviction? A No.

Q When was the last conviction for petty larceny? A 1912, I think.

Q Since that time have you been convicted of any crime? A No.

Q When did you last get out of Elmira, the last time you went

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back for violation of your parole? A I finished eight months and three weeks up there, after I came out of the Penitentiary.

Q About how long is it since you have been in Elmira? A Over three years.

Q You have been in no trouble during that time? A No.

Q Are you married? A Yes.

Q Married after you came out of Elmira the last time? A The first time.

Q After the first time -- how long had you known Patsy Doyle before his death? A Five months.

Q Where did you meet him? A In Nash's saloon.

Q That is this saloon now owned by Others, at 41st street and 8th avenue? A Yes.

Q Where did you meet Willie Mott? A I can't remember where I met him.

Q How long had you known him at the time Doyle was killed?  
A About three years.

Q Did you see Doyle the night of Saturday the 28th of November when he was shot? A Yes, sir.

Q When was the first time you saw him that evening? A A little after 8 o'clock.

Q Where? A In Nash's saloon.

Q Did he say anything to you then -- did he speak to you?  
A Yes.

Q That was the first time you had seen him that evening?  
A Yes, sir.

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Q Was that the first time you had been in Nash's that afternoon or evening? A No, the second time.

Q And what time were you there first that afternoon?

A After 5 o'clock.

Q Did you see Doyle there then? A I don't remember.

Q Did you see Willie there then, the sailor, Willie Mott?

A I couldn't say.

Q Then you went away, and when did you come back? A About quarter after eight I guess, or twenty minutes after eight.

Q Who did you see in there then that you knew? A I don't remember seeing anybody in there, I saw Willie in 41st street.

Q Did you see Patsy in Nash's? A No. I was supposed to meet him after we took the walk.

Q I am trying to find the first time he spoke to you before you went to walk with him, where was that? A In Nash's.

Q What time was that? A About ten minutes after eight, I guess.

Q You had a talk with him then? A Yes.

Q After that talk where did you go? A Took a walk.

Q You and Patsy? A Yes.

Q Where to? A 41st street and Broadway.

Q When you reached 41st street and Broadway, what happened?

A He told me to wait there until he came back.

Q Did you wait there? A Yes.

Q Where did he go? A East <sup>to</sup> on 6th avenue.

Q Did you see if he turned north or south on 6th avenue?

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A He turned north up 6th avenue.

Q How long was he gone? A About ten or fifteen minutes.

Q Where did he come from when he came back, if he came back?

A The same way as he went, through 41st street.

Q When he reached you at Broadway, what did he do, if anything? A He put a gun in my pocket.

Q What pocket? A My right hand overcoat pocket.

Q Did he say anything about it, just say yes or no? A Yes.

Q And after, did you see the gun? A I did not, no, sir, I did not get a look at it.

Q How did you know he put a gun in your pocket? A Because I felt it.

Q And then did you and he go anywhere then? A No, I went through 41st street and he went around 42nd street way.

Q You saw him go around through 42nd? A Yes.

Q Where did you see him next? A He came in Nash's.

Q You went to Nash's and he came to Nash's? A Yes.

Q On the way to Nash's did you meet anybody? A Willie Mott and Margie.

Q Margie who? A Everdeene.

Q Where did you meet them? A About the American Theatre.

Q Where is that? A That is up a little ways from Nash's, about the middle of the block.

Q Between what avenues? A Between 7th and 8th.

Q The north or south side of the way? A The north side of the way.

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

Q Where did you go then? A Right into Nash's.

Q What became of Willie and Margie? A I could not tell you I could not say.

Q What door did you enter Nash's at? A The family entrance on 41st street.

Q Was Patsy there when you got there? A No.

Q How long afterwards did he come in? A A few minutes.

Q What door did he come in? A The 8th avenue door.

Q What happened after he got in there? A He said "Give me that gun", and he took it out of my pocket.

Q It was still in the same coat pocket? A Yes.

Q Did you see the gun when he took it out? A I got a glimpse of it.

Q Do you know if it was a nickle-plated or a gun metal gun?  
A I could not say.

Q What did Patsy Doyle do then? A He walked to the back room of the saloon.

Q Stay there long? A No, sir, about a minute or so.

Q Did you see what he did back there? A No, I did not.

Q Then what did he do? A He came walking out through the bar and went out the 8th avenue door.

Q That is the door on the corner -- the swinging door of the corner entrance which opened on to 8th avenue? A Yes, sir.

Q Where was Willie then, the sailor, Mott? A I don't remember, I think he came in the saloon.

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Q After Doyle went out could you see him at all? A No, sir, there was stained glass in the door.

Q Where were you standing? A Right at the center of the bar

Q You say you don't remember where Willie was at that time?

A No.

Q Were there many people in the saloon? A There was quite a few.

Q Can you show us on this diagram, People's Exhibit 1 -- you understand this is 8th avenue, this is 41st street, there is the 8th avenue door on the corner, there is the 41st street door on the corner. Here is the 41st street side entrance, here is the back room in here with three doors, one going out and two into the barroom and here is the front bar; there is the back bar and here is the lunch counter -- can you take a pencil and mark for us about where you were standing? A I was standing right at the center, right here (indicating).

Q About the center of the bar? A Yes.

Q What were you doing? A I was standing there, I don't know if I was drinking beer or not.

Q Which direction were you facing? A This way (indicating)

Q Were you leaning on the bar? A My elbow.

Q Did you have your foot on the rail? A I don't remember.

Q Now tell us just what you heard and saw as you stood there?

A As I was standing there a few fellows came in, a couple of them and they looked around and they walked out the 41st street door in the front.

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Q What door did they come in? A They came in the family entrance door.

Q They came in the family entrance, the 41st street entrance you mean, this one (indicating)? A Yes, sir.

Q And they went out this door (indicating)? A Yes, sir.

Q Did they buy any drinks? A No.

Q How many of them were there? A Two.

Q Then what happened? A Then about a minute or so they came back again with another party.

Q The same two men came back? A Yes.

Q Sure of that? A I am sure of one of them -- I think --

Q You are not sure of the other? A No.

Q Tell us what happened -- you say the same two came back?

A Yes, sir, and they passed down to the rear of the bar.

Q Were those two men alone? A No, there was a third one with them.

Q Where did they come in, what door? A The same door they went out.

Q That is the 41st street door on the corner? A Corner, yes

Q Where did they go? A They just stepped inside the door and then Doyle came in the other door.

Q What did they do when they stepped inside? A They looked around, looked down towards the rear of the bar.

Q Then what happened? A Then Doyle came in.

Q What door? A The door he went out on 8th avenue.

Q The 8th avenue side of the corner? A Yes, sir.

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Q What did you see Doyle do? A He pulled a revolver out of his pocket and fired two shots.

Q Did you see what direction he fired them in? A Towards the ceiling.

Q What did those other three men do? A They swung around and fired at him.

Q Did you see what they fired with -- did you see anything in their hands? A I saw a flash.

Q How many of them fired? A All three of them.

Q Did you see three flashes? A Yes, sir.

Q And then what did you do? A I run out.

Q Can you tell us how many shots you heard altogether? A I couldn't exactly count the shots, no, sir.

Q Did they all come together or were they separated? A I could not -- the three swung around, they looked as if they were firing together, the three of them.

Q As you went out did you hear any more shots? A No, sir, I ~~did not~~.

Q Which door did you go out? A The family entrance, 41st street side.

Q Did you see Willie at the time you went out? A I don't remember.

Q Of those three men, did you know any of them? A I identified one of them.

Q Did you know them at that time? A No, I did not.

Q Did you ever see them before? A No.

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Q You were present on the John McArdle trial? A Yes, sir.

Q Did you identify on that trial either of them? A One of them.

Q Which one? A McArdle.

Q Have you ever seen the third one? A No.

Q Of the two you have seen since, you identified McArdle?

A Yes, sir.

Q Was he one of those three men who fired these shots? A Yes.

Q You say you ran out, where did you go after you ran out?

A I went over to 8th avenue.

Q You went out the side door on 41st street? A Yes.

Q And went to 8th avenue? A Yes.

Q That would make you turn west on 41st street as you come out of the door? A Yes, sir.

Q Where did you go when you got out to 8th avenue? A I went across the street, across 8th avenue.

Q The opposite side? A Yes, sir.

Q You still kept north on 41st street? A Yes.

Q Did not go on the south side of 41st street at all? A No.

Q When you got across 8th avenue, what happened, if anything?

A I saw a crowd gathering around the door, and somebody said

"Patay is lying in the hall."

Q What did you do then? A I went over and saw him lying in the hall, and I shook him and asked him to speak.

Q What hall do you refer to? A The hall in the house --

Q What house? A The house where the saloon is in.

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Q Can you indicate on this diagram where that hall is?

A Right here (indicating).

Q Where was Patsy in that hall? A Laying right by the stairs there.

Q What did you do when you got there? A I shook him and asked him -- kind of pushed him and said "Speak to me" and he could not, he was breathing heavily.

Q He was breathing at that time? A Yes.

Q What did you do? A I think some woman said "Go around and get a priest" --

Q Never mind that, some one said something? A Yes.

Q What did you do, anything? A No, I walked out and told somebody to tell a policeman.

Q Did you see a police officer come? A No.

Q Did you wait and see Doyle taken away? A No.

Q We will go back a few minutes, before this shooting took place and before you went for the walk you described, with Patsy Doyle, did you see Mott at all? A I believe I did, but would not swear I did.

Q Did you see Margie Everdene that evening? A I think she was with Willie.

Q Then you met them again as you came back? A Yes.

Q How long had you been about in the saloon at the time you had your talk with Patsy, after which you went for the walk? -- I just want to find out if it was just after you came in or some little time afterwards, or what? A As soon as I came in.  
(No cross-examination).

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WILLIAM FRANCIS MOTT, called as a witness in behalf of the People  
being duly sworn and examined, testified as follows:

(Residence 507 West 41st street).

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are a sailor in the United States Navy? A Yes.

Q How many terms of enlistment? A I am on my second enlistment.

Q How long have you been in the navy? A I am on my fifth year.

Q What does that red stripe on your arm indicate? A Enlistment stripe.

Q That shows completed term of enlistment, second enlistment? A Yes.

Q Sometimes called a service stripe? A Yes.

Q What is the other insignia on your arm? A First class heavy gun pointers mark.

Q When did you first return to New York last summer? A The latter part of July.

Q And from where had you come? A From Vera Cruz.

Q What ship? A On the Florida.

Q After you reached here, did you receive a furlough?

A A five day furlough, yes, sir.

Q At that time when you returned here to New York from Vera Cruz, did you know Patsy Doyle? A Yes, sir, I did.

Q How long had you known him? A About five days before going to Vera Cruz I had known him.

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Q Did you know Jimmy Keith? A Yes.

Q How long had you known him? A Perhaps two or three years--  
two years and a half.

Q Did you know Margie Everdene? A Yes.

Q How long have you known her? A About six years.

Q At the present time what vessel are you attached to?

A Serving on board the United States ship Maine, receiving ship,  
Brooklyn Navy Yard.

Q Were you ~~transf~~ transferred from the Florida to the Maine  
at the request of the District Attorney's office? A I was.

Q So you might be available as a witness in this case? A Yes.

Q Did you receive any furloughs after you got back from  
Vera Cruz, longer than a five days furlough? A Yes.

Q How many? A After receiving the five days furlough, the  
ship went to target practice and returned to the Navy Yard, and  
the 1st of October I went ashore on the twenty-five days furlough.

Q The 1st of October? A Yes.

Q That furlough expired? A The 26th day of October.

Q Did you receive another one then? A Yes, sir, thirty more  
days after returning to the ship I received --

Q Were you on furlough on the 28th of November? A Yes --  
the 28th of November?

Q That was the day Doyle was shot? A No, I was not on  
leave then.

Q How long had your leave expired at that time? A The 26th  
day of November.

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Q You were, however, on leave of absence from the ship on that day, the 28th? A Yes, sir, a forty-eight hour liberty.

Q You were over here in New York that afternoon? A Yes.

Q Did you go to Nash's saloon that afternoon? A Yes.

Q At about what time? A Perhaps 2:30, may be 3 o'clock.

Q While you were there at that time, did you see Doyle?

A No, not at that time.

Q Did you see Keith? A No, sir.

Q How long did you remain there? A Perhaps ten minutes.

Q Then where did you go? A Home to change clothes.

Q You were in uniform then? A Yes.

Q You went home, where was your home? A 507 West 41st.

Q Who did you live there with? A My mother.

Q Did you change your clothes? A No, there was nobody home and I had forgotten my key and I returned to the saloon expecting my mother back in the next hour.

Q Did you remain in the saloon that hour? A Not a full hour no.

Q Did you see Doyle that time? A No, sir.

Q Did you see Keith at that time? A No, sir.

Q How long did you remain there? A Perhaps half an hour.

Q Then what did you do? A Why, I met a friend of mine in there by the name of Lyons.

Q Is that Red Lyons? A Yes, sir, Red Lyons, and he told me of having seen Margie Everdene --

MR. COLLIGAN: I object to any conversation.

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THE COURT: Objection sustained.

BY MR. EDWARDS:

Q Do not say anything Red Lyons said to you, but you had a talk with him? A Yes.

Q As the result of that talk did he leave you? A He left the saloon, yes.

Q Did you yes or no, did you make a request of him before he left? A Yes.

Q When did you see him next? A After coming from the house the second time, or third time.

Q You went back to your home and changed your clothes then? A Yes.

Q And returned again to the saloon? A Yes.

Q Do you recollect about what time you got back? A Perhaps 4 o'clock or a little after.

Q Then did you see Red Lyons again? A Yes.

Q Did he say anything to you? A Yes.

Q Then what did you do? A I wrote something on a piece of paper and sent Red out with it, out of the saloon.

Q Did Lyons take it out? A Yes, sir.

Q To whom was that addressed? A Margie Everdene.

Q Did you see Lyons again after that? A Yes, sir, after changing clothes -- went home a second time and changed -- a third time and changed clothes, and seen Red when I came in the third time.

Q Now, when you saw Red Lyons the next time, can you tell us

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about how late that was? A Well, I should say it was around---  
it was after six or about six o'clock.

Q Did he tell you anything? A Yes.

Q After your talk with him what did you do? A I spoke  
to Doyle.

Q Had a talk with him? A Yes.

Q Where was he then? A He was in the rear part of the---  
rear end of the bar room.

Q About what time was this? A A little after six I guess  
it was.

Q After you talked to Doyle, what did you do? A Why, we  
had a couple of drinks at the bar and I was called to the side  
door later on---

Q This is at 6 o'clock--- did you and Doyle go anywhere?  
A Yes, sir, we went out and had something to eat.

Q Then you came back to the saloon? A Yes.

Q Did you see Margie Everdeene that evening? A Yes.

Q At about what time? A 7:30.

Q Where? A At the side door of the saloon, the family  
entrance.

Q Did you have a talk with her? A I went out and spoke  
with her.

Q Did you when you saw Margie Everdeene, or at any time  
after that, see again this piece of paper or note that you ad-  
dressed to her and had given to Red Lyons? A Yes, sir.

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Q Who gave you that? A Margie Everdeene gave it to me.

Q What did you do with it? A Tore it up.

Q Do you recollect what was in that note---do you recollect what you said in it? A Yes.

MR. EDWARDS: I offer, if your Honor please, to show the communication of the contents of that note later on, to the defendant, and I ask at this time to be permitted to show its contents.

THE COURT: Upon that condition, I will allow it.

Objected to. Overruled. Exception.

Q Tell us what was in that note you wrote to Margie Everdeene? A It was addressed "Bum", and the contents of it was "If you don't come up and see me at eight o'clock I will go down"---and if I am not mistaken, it was "wreck the flat."

Q Was that note discussed between you and Margie Everdeene when you saw her in the saloon? A Yes.

Q After that what happened? A We entered the saloon, Margie and I, at the side door and went into the back room, and I left the back room, sitting room, and came out and spoke to Patsy Doyle.

Q Where was that? A Just where I left him, at the rear end of the bar.

Q In the bar room? A Yes, sir. Then Patsy and I both walked in and spoke to Margie and Margie gave Patsy a letter.

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Q You were talking now in the back room? A Yes.

Q You and Patsy came back into the back room? A Yes.

Q Can you tell us what table, if any, you were at in the back room, while you talked to Margie? A This here one (Indicating) if I am not mistaken.

Q That table between the two doors, from the bar room into the back room? A Yes, sir.

Q How long did you and Doyle and Margie talk together there?

A Perhaps ten minutes---Patsy left the sitting room and went out to the bar and then returned again.

Q He came back again? A Yes.

Q Had some more talk after he came back? A Yes.

Q Then what happened? A Patsy went to the telephone. He went towards the telephone and he stopped and came back again and spoke to Margie and then Margie went to the telephone and Patsy and I stood alongside of her.

Q Where was the telephone to which Margie went? A Right here, right in that corner, up against this wall (Indicating).

Q Behind the lunch counter? A Yes.

Q You say Margie went to the 'phone, you mean she called a number? A Yes.

Q Was that a 'phone that you drop a nickel in? A Yes, sir.

Q And who paid the nickel? A I did, I believe.

Q Where were you and Doyle standing? A No---it was Patsy

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gave her the nickel.

Q Where were you and Doyle standing while she talked? A  
Right in back of her, right by her.

Q Well, you could hear what Margie said over the 'phone?  
A Yes.

Q Of course, you could not hear what the other person said  
at the other end? A No.

Q How long did Margie talk there? A After she got the  
number it was about a minute.

Q Then what happened? A She handed the receiver to Patay.

Q Did he talk? A He spoke over the 'phone, yes.

Q Can you give us an idea of about what time this was? A  
I could not be exact about it. It was between quarter past  
seven and half past, I should say---half past seven.

Q Between quarter and half past seven? A Yes.

Q I understood you to say that Margie did not get to the  
saloon until half past seven? A All right, I could not say what  
time it was. It was some time ago since this happened and I  
cannot remember time accurately. It was about quarter to eight,  
I should say.

Q Of course you were not following the time with a watch?  
A No, I was not.

Q Was that the only telephone conversation that you heard  
that evening, in which Doyle and Margie took part? A No, sir.  
It was the only one Margie took part in, but not Doyle.

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Q After this talk on the telephone was over, what happened?  
This first one you have been talking about? A Patsy walked  
away from the 'phone and the 'phone rang and he went back again  
and spoke again to another party on the 'phone.

Q You do not know who the other party was? A No---well,  
I understood who it was---

Objected to.

Q Unless you know of your own knowledge, not what you heard  
from anybody else? A No.

Q After that conversation, what happened? A Patsy turned  
around and spoke to me, and he spoke to Jimmie Keith next and both  
of them left the saloon.

Q Jimmie Keith and Patsy Doyle? A Yes, sir.

Q Where was Margie at that time? A She was standing  
right in the doorway of the sitting room---the door that leads  
from the sittin' room into the saloon.

Q The door that leads from the rear room of the saloon  
into the bar room? A Yes.

Q Which one do you mean? A Right there. (Indicating).

Q That door right there? (Indicating) A Yes.

Q You say that Doyle and Keith went out? A Yes.

Q And what did you do? A I turned around and went inside  
and spoke to Margie and Margie and I left the saloon then by the  
same door, the family entrance.

Q Where did you go to? A Walked east on 41st Street on the

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uptown side of the street.

Q How far? A As far as the rear entrance of the Liberty Theatre.

Q How long did you stay there? A We walked slow and we stood there about say ten minutes or five minutes.

Q Then what did you see? A Keith was walking west on the same side of the street, and joined us there and spoke a minute and we both walked down to the saloon again.

Q You and Keith and who? A And Margie.

Q Did you go back into the saloon? A Yes.

Q Did you see Doyle again? A Yes.

Q When? A A couple of minutes later.

Q Where did he come from? A From the front door of the bar room.

Q And did you see whether he spoke to Keith or not? A Yes, sir.

Q What did you see him do then? A I saw him put his hand in Keith's pocket.

Q Did you see what he took out? A Yes.

Q Did you see what it was? A Yes.

Q What was it? A A gun.

Q Then what did he do? A He walked into the toilet, in the rear of the sitting room, and walked back again to the front door and done that perhaps ten minutes, and after that he stood out in the vestibule of the front entrance.

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Q At the time you say he came out of the back room again, where were you and Margie? A Margie was---I had told Margie to leave the saloon and she had left.

Q Which door did she go out? A This side door.

Q Where was Doyle then, if you know? A Right here. (Indicating).

Q You are pointing to a point outside the 8th Avenue door?

A Just on that step there---there is a marble slab that covers these two doors, and there is a sort of a vestibule. There is doors in here, and doors out here, and these doors were open and Patay Doyle stood right on the outside here (Indicating).

Q Right on the step outside? A Yea, sir.

Q Where were you? A Right here, up against the bar.

Q Put a mark at the point where you were standing.

(The witness indicates).

Q You were standing about where you have made the cross mark---put an "M" beside that so we will know who made it. Now put a mark where Doyle was standing, about. A (The witness indicates)

Q You put an "M" on that also? A Yes, sir.

Q How could you see Doyle from where you were? A I saw the shadow of him through the glass, the glass of those doors.

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

Q And you could see his shadow as he stood there? A Yes, sir.

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Q How long did that condition continue? A For perhaps five minutes. It was not five minutes when I saw two people enter from the family entrance.

Q Two men came in from the family entrance? A Yes, sir.

Q Had you ever seen either of them before? A Yes.

Q Where did they go? A They came from the side entrance and walked to the forward end of the bar, and looked around a minute and then left the side door, the 41st Street front door.

Q Point to the door you mean they came in? A They came in here and stood there perhaps a couple of seconds, and walked up here and looked around the saloon, at those sitting at the table and those in the chairs at the west end of the bar and those at the bar, and then turned around and walked out this door. (Indicating).

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Q That is the 41st Street? A Side door.

Q Or the corner door, front of the saloon? A Yes, sir.

Q What happened then? A They were gone about a minute, I should say, and came right back in again and there was a third party with them, and they came over as far as that table there and spoke to somebody sitting at the table.

Q You speak now of what table? A This table right here. (Indicating).

Q They came in what door again? A The same door they left.

Q You say there were two or three of them? A Three this time.

Q Where did they go first? A Stood right here a second and then walked right over here and one of them spoke to a party sitting at this table.

Q Then what did they do? A Then I seen Patsy Doyle enter the saloon.

Q From what door? A This door right here, half of this door.

Q What did you see him do? A Fire two shots in the air with a revolver.

Q What do you mean by fire two shots in the air? A He held the gun up like that, about a forty-five degree angle.

Q He fired two shots with it? A Yes.

Q What did you see those three men do then? A Turn around

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and fire at him.

Q Did you see where they got their guns to fire with?

A Yes, sir; I saw one of them pull his gun out of his pocket.

Q Have you ever learned since what his name was? A Bieler, yes.

Q Have you since seen either of the other two besides Bieler?

A I saw McArdle.

Q You were present on his trial? A Yes.

Q You identified him there as one of the three? A Yes, sir.

Q Have you ever seen the third man? A No.

Q What did you do when you heard these shots fired? A After I heard about the second shot fired at Doyle, that is, not including the shots that Doyle fired---I turned and I ran out that side door there.

Q That is the rear door on 41st Street, this one back here? A Yes, sir.

Q Did you hear anything more as you went out? A I heard some more shots fired.

Q Can you give us any idea of how long this whole thing took from the time Doyle fired the first shot until you all ran out and you heard the last shot? A It all happened in the space of about a minute, I guess, or two minutes, probably.

Q Was it quick or short? A Very quick.

Q Can you tell us with any degree of accuracy how many

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shots were fired altogether? A No, sir; I could not.

Q Can you tell us whether the shots following Doyle's first two, came together or were separated, so you could count them easily? A Well, I know of one that---I seen one shot fired and heard the report and then the rest came pretty close together, were fired together.

Q When you ran out, you say you went out this 41st Street door? A Yes sir.

Q Did you see where Jimmie Keith was? A Keith was right ahead of me.

Q Where did you go when you got outside? A Half way across the street---half way across leaving the curb stone---half way across the road.

Q That was the first time you stopped? A Yes, sir.

Q What did you do then? A I turned around and looked over my shoulder.

Q What did you see? A I saw this man Bieler---I saw him go as far as that side of the vestibule of the family entrance

Q You saw him go where? A Out the door and go to that part of the door.

Q These lines around here indicate a sort of a storm door that is built all over that entrance? A Yes.

Q And there is an east and a westdoor into that vestibule? A Yes.

Q Which one of those two doors did you pass out of, after

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you passed the point marked "Lobby"? A This one. (Indicating on diagram).

Q You came out the east door? A Yea, sir.

Q Where did you go to, in which direction? A Right straight south.

Q When you turned and looked over your shoulder, as you say, where was it you saw Bieler? A Right at that door, just coming out of the door.

Q What did you see him do? A Throw what I am lead to believe is a revolver since---

Q Describe what you saw him do and what you heard? A I saw him throw something over his left arm and it sounded to me as though it was a piece of metal he threw away because it hit the iron grating that is to the east of that door, and it sounded to me like metal hitting metal, that is just what it was.

Q What do you mean when you say you saw him throw something over his left arm, illustrate to us, show us what you mean? A He had something in his hand and he heaved it like that as he came out.

Q Threw it like that? (Indicating) A Yea, sir.

Q Then what did you do, or tell us what you saw Bieler do, if anything? A I saw Bieler walk right in my direction and I kept walking the way I started, right to the other side of the street.

Q That brought you to the south side of 41st Street? A

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Yes, sir.

Q Where did you see Bieler go? A He came right over and passed right to the right of me. I stood on the curb stone looking at the saloon, facing the saloon, and he passed to the right of me, around me, and walked as far as the corner of 8th Avenue and 41st Street and down 8th Avenue.

Q What did you do? A I walked over to the other side of 8th Avenue.

Q Did you go along the south sidewalk of 41st Street and 8th Avenue? A Yes, sir; as far as the corner and then crossed over to the northwest corner of 41st Street and 8th Avenue.

Q On your way to the corner, or at the corner of 41st Street and 8th Avenue, did you see any one you recognized? A Yes, sir.

Q Who? A Not then---that was before that.

Q Tell us whom you saw and when you saw him? A I saw Owen Madden standing on the corner.

Q Who do you mean by Owen Madden? A Sitting right there. (Indicating).

Q This defendant here? A Yes, sir.

Q Whereabouts on the corner was he? A There is a stand where they sell soda and tobacco and cigarettes and so forth, right to the right, or to the left, as you face it, of the United States Cigar store.

Q That is, the United States Cigar Store is on the corner?

A Yes, sir.

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Q And this stand is on the street to the left of the entrance of the United States Cigar Store as you face downtown on 41st Street? A Yes, sir.

Q Where was Owen standing? A He was standing, as I faced it, to the left of that stand. There is a side entrance of the saloon there, Grinney's is the name of it, I believe.

Q That is a saloon that runs around behind the United States Cigar store and has an entrance on 8th Avenue also? A Yes, sir.

Q And also on 41st Street? A Yes.

Q That would bring Madden, where he stood, about ~~what~~ opposite what point of Nash's cafe? A He was on the south side of 41st? A Yes.

Q Opposite what part of Nash's cafe would that bring him?

A I believe it is directly opposite the family entrance.

Q Just about opposite the family entrance? A Yes, sir.

Q What, if anything, did you see him do? A When I stopped in the middle of the street I looked over my shoulder for that reason, because I saw him standing there, and then I saw him walk as far as the corner of 8th Avenue and 41st Street, and go down 8th Avenue.

Q Did you see any of the other men who had been in the saloon besides Bieler, after you ran out? A No, I did not.

BY THE COURT:

Q Was this after the shooting you saw him? A Yes, sir.

Q When you first came out? A After the shooting, when I

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left the saloon.

Q As soon as you got outside of the saloon, after the shooting, you saw him? A Yes.

Q How many feet was that away from the entrance? A It is---I couldn't say how many feet---it was directly opposite, across the street.

Q Across 41st Street? A Yes, sir; just the length of the street.

BY MR. EDWARDS

Q It was just across the street, you mean? A Yes, sir.

Q And coming out of Nash's side door on 41st Street, that is, on the north side of 41st Street? A Yes.

Q It is a point about opposite that on the south side? A Yes, sir, just the width of the street, that is the distance away.

Q Just the width of the street and the sidewalk? A Yes, sir.

Q Where did you go then? A Crossed the street to 8th Avenue, northwest corner of 8th Avenue and 41st Street and met a couple of friends of mine then and spoke to them a couple of minutes and then went as far as 44th Street and 8th Avenue.

BY THE COURT:

Q Had you ever seen the defendant before? A Yes, sir.

Q You knew him by sight? A Yes.

Q How long had you known him by sight? A I did not know

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him personally or by sight but knew him from seeing him and having him pointed out to me at a dance hall.

Q How long ago was that? A That was perhaps a year; I believe it was a little over a year.

BY MR. EDWARDS:

Q How often had you seen him since you first saw him pointed out to you, around the town, at dances, and so forth? A Twice, I saw him twice, I think, before this night.

Q Go on and tell us what you did next? A I went in to the saloon at ~~42nd~~ Street and 8th Avenue---44th Street, rather, and had a couple of drinks, after which I went through 44th Street and went down home, and changed into uniform and went to Brooklyn, and went to bed that night in the Naval Y.M.C.A. in Brooklyn, and woke in the morning and stayed around Sand Street in the Navy Yard District over there until the following morning, and then I returned to the ship.

Q When did you first come to the District Attorney's Office?

A Perhaps three days after that, if I am not mistaken.

Q That was when you were sent for? A Yes.

CROSS EXAMINATION BY MR. COLLIGAN:

Q You are addicted to the use of drugs, are you not? A I am not.

Q You are positive of that? A Yes, sir.

Q You were a chum of Doyle's? A Yes, sir; for a while.

Q In fact, every opportunity you had when on land you were

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with Doyle? A After meeting him, yes, and becoming acquainted.

Q I believe you attended a line-up, did you not, after the shooting? A Attended what?

Q A line-up---did you see certain people put in a line, and weren't you asked to identify certain people? A Yes.

Q Was this man in the line-up at the time? A Yes, sir.

Q Is it not a fact that you failed to identify him? A Yes, sir.

Q How long was that after the shooting? A Perhaps three or four days.

Q And now, eight months after the shooting, you can identify him? A Yes.

Q Where was the first time you had ever seen Madden? A In a dance hall in 36th Street, I don't know the name of it---36th Street and 9th Avenue.

Q You have lived in that vicinity all your life? A No, sir.

Q How many years have you lived in that vicinity? A About four.

Q And you cannot recollect the name of the dance hall? A No, I cannot.

Q Who ran the dance? A I couldn't say that either.

Q How long ago was that? A About a year and three or four months.

Q Who attended the dance? A I went down with a couple of

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friends of mine from the Brighton Social Club and I was a member of that club at that time.

Q Who were the men? A McClusky---a man by the name of Bob McClusky.

Q You are positive of that? A Yes, sir.

Q Who was the other fellow? A If I am not mistaken, it was the same Red Lyons I spoke of before, and there were several others too, I just can't recollect who they were.

Q Why were you so interested in Madden at the time, that you wanted him pointed out? A Because he was a noted gangster.

MR. COLLIGAN: I move to strike that out.

THE COURT: It is responsive. If you want his reasons--- when he gives them.

THE WITNESS: He was noted---

Objected to.

THE COURT: That is sufficient. You have answered the question.

BY MR. COLLIGAN:

Q You saw him a year before the shooting? A A little over a year.

Q Did you not? A Yes.

Q You saw him the night of the shooting? A Yes.

Q Tell us why you could not identify him in the line-up, three days after the shooting? A Well, because I did not say anything. I would not say anything at the time, I would not point no man out.

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Q He was a noted gangster? A Yes.

Q You are a member of the United States Navy? A Yes,  
sir.

Q Although you palled with a noted gangster? A I did not  
know him as such, no, sir.

Q Patsy Doyle? A Yes.

Q Had you ever seen him try to kill a man in Nash's saloon?

A No.

Q Weren't you present one night when he ripped a man open  
with a knife? A No.

Q And cut his neck? A No.

Q And his back and his kidneys? A No, I was not.

Q Who were the men you spoke to when you left the saloon  
immediately after the shooting? A A fellow by the name of Reilly.

Q What is his first name? A Edward Reilly.

Q What does he do for a living, if anything, if he does any-  
thing?

MR. EDWARDS: I object to the form of the question.

Objection overruled.

THE WITNESS: He works in the Scribner Building, 43rd Street.

Q Have you seen him since that time? A No.

Q You never talked over the situation with him since? A  
No, sir.

Q Did you ever tell the District Attorney that you talked  
with that man on the sidewalk immediately after the shooting? A

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Yes, sir.

Q You gave the District Attorney his name? A Yes.

Q Was the statement taken down? A That was at the last trial.

Q Are you positive of that, that that testimony was admitted at the last trial? A Why, yes; I am positive.

Q Who asked you the question? A Counsel for the defendant asked me the question.

Q Referring now to the trial of McArdle? A Yes, sir.

Q You told him Reilly was there? A I did not say Reilly was there, I said I spoke to Reilly and walked to 41st Street with Reilly and another man by the name of Eagan.

Q I understood you to testify in your direct examination that you crossed to the south side of the street, 41st Street and 8th Avenue? A Yes.

Q After you left the side entrance of the saloon? A Yes, sir.

Q And there saw Madden, am I correct? A Yes---no, sir. I said I went to the center of the street and saw Madden and stopped there after seeing Madden.

Q Where was Madden standing? A Right in front of Grinnen's side door, and side door of Grinnen's saloon.

Q Is that the south side of 41st Street near 8th Avenue?

A It is on the south side of 41st Street, yes, right off the corner.

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Q You walked to the middle of the street? A Yes.

Q Saw Madden and returned north again to the saloon? A I did not.

Q Tell us what you did say? A I said I walked as far as the center of the street and after seeing Madden I stopped. I looked over my shoulder and then I seen Bieler leave the saloon. After that I seen Madden move to the corner and then I went right ahead where I was going, to the south side of 41st Street.

Q Which corner did Madden move to? A He went right to the south corner of 41st Street and 8th Avenue and then down 8th Avenue.

Q How far away was he from 41st Street and 8th Avenue at the time you first saw him? A Perhaps twenty feet.

Q You walked to 44th Street? A No.

Q Where did you walk to? A I walked from the south side of 41st Street and 8th Avenue to the northwest corner of 41st Street and 8th Avenue and there saw Reilly.

Q Who was the other man you saw? A Eagan---a man by the name of Eagan.

Q Do you know his first name? A Thomas---I don't know where he lives or what he does.

Q Did you speak to them with reference to the shooting?  
A Well, yes, I did.

Q You are positive of that? A I am.

Q Why did you hesitate? A Because I did not just know

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how to express myself.

Q You did not know whether to say yes or no? A No, that is not the reason at all.

Q How long did you remain there? A On the corner of 41st Street, you mean?

Q Yes? A Perhaps two or three minutes.

Q Where did you go then? A Walked to 44th Street and 8th Avenue.

Q When did you first tell the District Attorney that you saw Madden on that corner, immediately after that shooting? A Right after the McArdle trial.

Q You recollect that the shooting occurred the 28th of November? A Yes.

Q 1914? A Yes.

Q You recollect that McArdle was tried March 15th, 1915?

MR. EDWARDS: It began that time and lasted about a week.

MR. COLLIGAN: Yes.

BY MR. COLLIGAN:

Q And on numerous occasions you visited the office of the District Attorney? A Yes.

Q And on those numerous occasions, knowing that the District Attorney was anxious to convict Madden---A I did not know anything of the kind. That is his business, I suppose, and I suppose it was.

Q But nevertheless you did not tell him the fact that Madden

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was on that corner? A No, sir; I had reasons for not doing it.

Q What was the next dance you met Madden at? A I did not see him at a dance the second time.

Q Where was the second occasion? A 34th Street and 8th Avenue.

Q When was that? A About two weeks after I saw him at the dance.

Q Who were you with at the time? A I was alone.

Q What were you doing over there on that occasion? A Passing by. I was down to see Jimmie Keith, to see if he was home or not and as I passed by down 34th Street I saw Madden and I knew him right away.

Q Did you see the officer come into the saloon? A The officer?

Q Yes? A No, sir; I did not. I did not wait that long.

Q You did not wait that long? A No.

Q Did you see an officer on the street at all? A No, sir---I saw an officer leave the corner as I went across the street to 8th Avenue.

Q Which corner did the officer leave? A He came from--- he came from the west side of 8th Avenue---now, what corner he left I do not know but he was heading for the saloon.

(The Court admonishes the jury in accordance with Section 415 of the Code of Criminal Procedure, and takes a recess until two o'clock.)

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A F T E R   R E C E S S (Trial resumed).

W I L L I A M V F R A N C I S   M O T T , resumes the stand.

CROSS EXAMINATION (Continued) BY MR. COLLIGAN:

Q You are positive there was a shooting in the saloon that night?   A Yes, sir.

Q And you knew your chum was killed, is that so?   A No, I did not know it then.

Q Did you know he was shot?   A Yes.

Q And you knew as a matter of fact that he had a gun and was about to shoot somebody else, if he got the chance?   A No, I did not know that at all.

Q You did not know anything at all---you have told this jury that Doyle, with his reputation, walked into that saloon, knowing that a couple of men were to come up there, and deliberately fired at the ceiling with a revolver---do you still stick to that story?   A Yes.

Q And you expect the jury to believe it?   A I can't help that.

MR. EDWARDS: I object.

Objection sustained.

Q When you left the saloon, after the shooting, didn't you think it was your duty as a representative of the American Navy, to notify the official authorities?   A No, sir.

Q Why not?   A Because I thought it would make trouble for me in the Navy Department---would hurt my character in the Navy---

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that was the way I thought at first.

Q Didn't you think it would hurt your character in the navy if you associated with men who made their hang out a saloon where were congregated together black and white people? A Well, yes.

Q You knew you did not represent the American Navy in that capacity, didn't you? A The American navy---the people in the navy, more or less all of them, take in those places now and then. That is known.

Q As a matter of fact that is what is called a hang out for you? A Well, I spent the biggest part of my time there, while on furlough, yes.

Q You told me a little while ago that the first time you saw Madden was at a dance hall at 36th Street and 9th Avenue? A Yes.

Q That is right, isn't it? A Yes.

Q Now, how long ago was that? A That was about a year--- it was over a year ago, about a year and three months.

Q You are absolutely positive of that? A Yes.

Q And you are absolutely positive that your friend McClusky pointed out Madden to you? A Yes.

Q And McClusky was a member of a club in that vicinity, was he not? A Yes.

Q McClusky was a member of the club which had premises over the saloon in which the killing occurred? A No.

Q It was recently moved across the street? A No, sir.

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Q What club was McClusky a member of? A The Brighton S. C.

Q Is it not a fact the Brighton S. C. occupied premises over that saloon at one time? A No, not to my knowledge.

Q Didn't they occupy premises across the street? A Yes, sir.

Q On 8th Avenue? A Yes.

Q So that now we both agree that McClusky, a member of the club which you belonged to---A I belonged to it then.

Q And Keith belonged to it? A Yes.

Q And Keith was vice president? A Not at that time, no, sir.

Q He is vice president now? A No.

Q He has been? A He has been, yes.

Q And Doyle patronized that club and at times made it his headquarters? A No.

Q Nevertheless you were all friends of Doyle's? A Yes, sir.

Q And we do know now that McClusky was the man who pointed Madden out to you? A Yes, sir.

Q At the dance hall at 30th Street and Ninth Avenue? A Yes, sir.

Q That was when? A What?

Q About what time of the year was that? A A year ago and about three months---figure back yourself.

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Q Take your time and figure? A I guess it was a year ago last October or September.

Q That was known as Cunningham's Hall? A I don't know the name of it.

Q Nevertheless it is at 36th Street and Ninth Avenue on the northwest corner? A No, it is in the middle of the block, if I am not mistaken, the dance hall I mean. Whether it was 36th Street or not I couldn't be positive.

Q Why try to dodge? You have told us several times it was 36th Street and 9th Avenue? A I am not trying to dodge, whether it was 36th or 37th, I know it was the middle of the block.

Q And you know it is Cunningham's Hall? A No, I don't know anything of the kind.

Q And you know that in the same hall, over two years and a half ago a shooting occurred there? A No, sir; I know no such thing.

MR. EDWARDS: I object to what occurred in the hall two and a half years ago.

THE COURT: I will allow it on cross examination.

MR. EDWARDS: He testified he saw this man there a year and four months ago when he was pointed out.

BY MR. COLLIGAN:

Q Now, as a matter of fact you know that this hall that you refer to was closed two and a half years ago because a man was shot there? A No, sir; I know no such thing.

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Q And you know that only recently the hall has been recently opened? A No, I don't know that even.

Q You know of Cunningham's Hall, 36th Street and Ninth Avenue? A This is not on no corner, the dance hall I mean.

Q You are positive of that? A It is not on the corner, no, sir; I am positive of that.

Q If Mr. McClusky, whom you mentioned, went on the witness stand and said it was the corner saloon, 36th Street and 9th Avenue, which was known as Cunningham's Hall he might be mistaken?

A He would be mistaken, yes.

Objected to as hypothetical.

THE COURT: He says he would be mistaken.

BY MR. COLLIGAN:

Q How long had you known Margie Everdeene? A About six years or so, probably more than that.

Q When did you first begin going around with Margie Everdeene? A When we both lived in 44th Street between 8th and 9th Avenues.

Q How long ago was that? A Just about six years ago, more or less.

Q Had you been going with her steadily for six years? A No, sir.

Q Did you ever have any trouble with her? A A few spats.

Q Why did you have a few spats? A Well, I could not just bring up the different things that happened between us, that made

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us argue.

Q There was an occasion when you had one spat with her when you struck her over the eye? A Yes, sir.

Q What was that reason? A Because I was led to believe that I was fixed up with a case of gonorrhea from Margie, and so since that time I have learned different.

Q Don't you know the real reason is entirely different from that? A No, I do not.

Q Did you ever ask her to go out and hustle for you? A No, sir.

Q And is not that the reason you struck her over the eye? A No, sir.

Q Who was the Eagan you referred to when you mentioned Eagan the night that Madden was pointed out to you? A I did not say I met any Eagan that night.

Q Who was the other man? A Well, just whom do you mean?

Q When---you first saw Madden at a certain dance? A The other man was this Red Lyons I spoke about once before.

Q How was Madden dressed the night you saw him, that is, the night of the shooting? A He had a cap on, what I would call a khaki colored shirt, and dark clothes---couldn't say if they were checked clothes or striped clothes or not. It was in the shadow when I saw him.

Q It was in the shadow? A Yes, sir; until when he walked past the United States Cigar store.

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Q Yes? A And then he was in the light, but I did not notice his clothes, of course.

Q How near were you to him? A A distance of about twenty feet I guess---fifteen or twenty feet.

Q You have stated previously that he walked towards 8th Avenue in a westerly direction? A And down 8th Avenue.

Q He crossed the street? A No.

Q He walked down on the west side? A The east side of 8th Avenue.

Q He walked? A He walked while I was looking at him. When he turned the corner he was out of my sight.

Q At no time, as far as you know, did he run? A No.

Q Did Bieler walk or run? A Bieler walked.

Q Did Bieler join Madden at anytime? A No---that is, as far as I know I did not see him join Madden.

Q You did not see the policeman come into the place? A I did not see him go in the place, no, sir. I saw a policeman walking toward the place.

Q Didn't you state before recess that you did not see the policeman at all? A No, sir; I did not. I corrected myself as I was about to say that.

Q You were not interested enough in the situation to remain there until the policeman reached the premises? A No, sir; I was interested---all I was interested in was getting in my uniform and getting away from the neighborhood.

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Q Yes? A And then he was in the light, but I did not notice his clothes, of course.

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Q You were not interested enough in the situation to remain there until the policeman reached the premises? A No, sir; I was interested---all I was interested in was getting in my uniform and getting away from the neighborhood.

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Q Getting away from the neighborhood? A Yes.

Q It was your hang out. A Whether it was my hang out or not, I wanted to get away from there.

Q If you knew the shooting was to come off, why didn't you leave the place before the shooting came off, if you were so anxious? A Because I wanted to stay with Patsy Doyle. Patsy Doyle was a friend of mine.

Q You wanted to see either Patsy Doyle killed or Bieler killed? A No, I had no idea at all that way.

Q You never knew there was going to be a shooting? A I suspected it, yes, in fact I knew it.

Q Nevertheless, you thought so much of your own safety, you remained there? A I remained with Patsy Doyle, yes, I did.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q Now, counsel asked you if you were at the line up in which Madden was in the line and you said you were there and he asked you if you failed to identify Madden and you said you did---did you recognize him at that time? A Yes.

Q Who did you go on that line up to identify? A Bieler.

Q Was he in that same line? A At the time I identified Bieler, Madden was not in the line up, no, sir.

Q When you went to the line up, when you were shown the line up in which Madden was, and you say you did not identify him, was there any reason why you did not? A Yes, sir.

Q What was it? A I had three or four reasons---first, I did not want to get in trouble on my ship---did not want to

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be detained as a witness, and another reason was because I did not want to lose my ship and I knew if I was held as a witness the ship would sail without me, because when a ship left here, they were not supposed to go back to their own yard---no schedule made out for their returning to their own yard before going to the other coast, the Exposition, and I did not want to lose that trip.

Q You did not want to lose the trip around to San Francisco?

A Yes, sir.

Q Any other reason? A I wanted to keep out of all such trouble as coming to Court and testifying, and I was afraid my commanding officer would have no use for me ever on the ship if I-- if he knew I was testifying in such a case.

Q You recognized Madden at that time? A Yes.

Q Counsel asked you about when you first told the District Attorney about having seen Madden on that corner, and you said after the McArdle trial; you said you had reasons for not telling him before that. What were those reasons? A I was not asked at the McArdle trial about Madden at all. Another reason was I understood that Frieda had not talked about Madden and I did not like to implicate Frieda any more than she was implicated in the case.

RE-CROSS EXAMINATION BY MR. COLLIGAN:

Q Did you identify Bieler in the line up? A Not at the first line up, no, sir.

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Q What line up did you identify Bieler in? A The second time they were lined up in front of me.

Q That was a very short time after the murder? A Yes, sir.

Q Then, why did you say to the jury that you were willing to identify Bieler and were not willing to identify Madden because that might prevent you from taking a trip to San Francisco? A Because I thought that if I identified Bieler and let the rest drop that I would not be in as much trouble as if I identified everybody.

Q Then it is not the reason---A Sir?

Q That you were to miss a trip to San Francisco, that you refused to identify Madden? A Yes, sir.

Q And notwithstanding that you were willing to take chances and identify Bieler? A Why, I did not figure that the case would linger as long in identifying one man as in identifying three in three trials.

Q That was the only reason? A That is one.

Q What other reason? A I did not want to get in any worse than I was, aboard the ship.

Q Would it make any difference to you aboard ship that you did identify Madden or did not identify Madden, after identifying Bieler? A Yes.

Q What difference would it make so far as your commanding officer was concerned? A The liberty I would have to get to go

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ashore and testify.

Q You did not care for the liberty at all at 41st Street and 9th Avenue? A Liberty at 41st Street---

Q Yes? A I don't understand you.

Q You would rather be on shipboard than get the liberty to testify against Madden? A That is not it at all. I am trying to make myself understood different. If I got that liberty, if I came ashore so often to testify against Bieler and then had to do the same thing for the same length of time against for McArdle and then again for Madden, it would be a lot different to the commanding officer of the ship, than if it was just for one case of Bieler.

Q That is your answer? A Yes.

BY MR. EDWARDS:

Q Did you think it would get you in any worse trouble to identify Madden than to identify Bieler? A Yes, sir; I thought it would.

Q How did you figure that? A In the first place with Madden's friends.

Q What do you mean by that? Explain it so that we can understand you? A From what I understood about those people in that neighborhood, a man testifying against any of those people in a case like this, why, he is liable to injury after it is all over.

Q Did you feel the danger was greater to you if you identified Madden than if you identified Bieler and not Madden? A Yes,

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sir.

Q Why was that? A Because Bieler was not as noted as Madden.

Q What do you mean by that, noted?

MR. COLLIGAN: I object.

THE COURT: You have gone into that far enough.

BY MR. EDWARDS:

Q Did you notice whether or not---do you recollect now whether or not Doyle was wearing a hat that night? A Yes, sir; he was.

Q What sort of a hat? A A round high crown blue hat.

Q Soft or hard? A Soft.

Q I show you a hat marked People's Exhibit 4 for identification and I ask you if you ever saw that hat before? A Yes, sir.

Q Where did you see it? A At the McArdle trial.

Q Did you ever see it before that? A Yes.

Q When? A On Patsy Doyle---and have worn it many a time.

Q Is that the hat he was wearin' the night he was shot? A Yes.

Exhibit 4 for identification, being the hat, is offered in evidence, received and marked People's Exhibit 4, in evidence.

W I L L I A M A . J O N E S , called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

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## DIRECT EXAMINATION BY MR. EDWARDS:

Q Captain Jones, you are a lieutenant with the rank of Acting Captain of the Municipal Police Force of this City? A Yes, sir.

Q You have been for how long? A Twenty-eight years the 21st of next month.

Q Now, you are acting Captain in charge of the Third Branch Detective Bureau? A Yes.

Q Will you briefly tell the jury what your experience has been in the handling of firearms and in experimentation for the purpose of determining whether or not holes in fabrics are bullet holes or not, and in determining the range at which shots are fired? A I was an instructor in pistol practice for the Police Department while the school was in operation from November 1895 until 1911---while the school was in operation. I was attached to the homicide bureau of the Detective Bureau and my duties there were to investigate homicide shooting cases and I have made hundreds of experiments with different makes of pistols and different kinds of powder, at fabrics, cloth, paper, and I have used skin in some cases, where we take the hair off from a calves head, and it leaves a soft skin, almost like human skin. We have shot at that for ingraining of powder in it, different kinds of powder, both smokeless and black.

Q You have also, in the course of your experience, been called upon to testify as to your opinion on such facts, in a

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great many cases? A Yes, sir; in a great many cases.

Q I show you a hat marked People's Exhibit 4 in evidence and call your attention to a hole in the rim of that hat and I ask you to examine it and state whether or not you can state with reasonable certainty from your experience, whether or not that hole was made from a bullet? A Yes, sir, in my experience, it is a bullet hole.

Q I show you an overcoat marked People's Exhibit 7 in evidence, and I ask you if you will examine that and tell us if you find any evidence of bullet holes or bullet marks on that coat? A I find three.

Q Whereabouts? A On the right shoulder---one here---this was a glancing shot this way (Indicating).

Q That is from left to right on the coat? A Yes, sir.

Q As you wear it? A Yes, sir. I find singeing of powder showing that the pistol was held in this position, across the coat.

Q When you say this position, you hold your hand from the left of the coat as you wear it to the right of the coat as you wear it? A Yes, sir. I find a second one here.

Q You are pointing to a point about an inch and a quarter or two inches inside of the outer edge of the sleeve seam? A Yes, sir.

Q And lower than the one---A About an inch and a half or an inch lower.

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Q Than the first one you called attention to? A Yes, sir. I find a third one, which passed through the lapel of the coat, through inside, through both thicknesses of it.

Q That is, through the outer lapel and the inner substance of the coat also? A Yes, sir.

Q You spoke of the direction shown of the first shot that you referred to, the higher one, out on the seam of the right sleeve---can you tell us whether that shot was fired from a cartridge loaded with black or smokeless powder? A With black powder.

Q Can you form any opinion with reasonable certainty, from the appearance of the powder stains on that coat, at that point or around that point, with respect to the range at which that shot was fired? A I should say between nine and ten inches.

Q With respect to the other two bullet holes in the coat are there any powder marks of any kind about those? A No, sir; none whatever.

Q Can you tell us the maximum range at which black powder would make a mark upon fabric of that character, in your opinion? A I could find it very plain on this fabric from---up to--- it would be faint at eighteen inches, but I could pick it up possibly up to twenty-four inches, but above that I could not get it.

Q Can you state then anything with reasonable certainty with respect to the range at which those other two shots were fired?

A I should say they were over two feet.

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Q But beyond that you could not say? A No.

Q Now, I show you an inner coat, People's Exhibit 5 in evidence, and I ask you if you will examine that and tell us whether or not you find any bullet holes in that coat? A There is one an inch and a half to the front of the seam, the sleeve seam.

Q Of the right sleeve? A Of the right shoulder, yes. I find one in the front of the coat an inch from the lapel which corresponds to that one on the overcoat.

Q That would correspond with the one that went through the lapel of the overcoat, the third one you pointed to on that? A Yes, sir; and the other one corresponds with that. (Indicating).

Q The other would correspond with the second hole in the overcoat, the one about two inches from the seam? A Yes, sir. I find another one here, cutting the edge of the coat.

Q That is, cutting the edge of the side of the coat? A Yes, sir.

Q That is the right side? A Yes, sir.

Q Just near the middle button? A Yes, sir.

Q Opposite the middle button? A Yes, sir.

Q Is there any mark on the overcoat which corresponds with that mark or hole? A No, sir.

Q Is that all you found in the inner coat? A Yes, sir.

Q Now, I show you the trousers, which are marked People's Exhibit 6, and I ask you if you will examine those and see if you

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find any holes that in your judgment were made by bullets? A Yes, sir; I find one on the center of the thigh.

Q Which leg? A The right leg.

Q That is the one you indicate here at this point? (Indicating) A yes.

Q That goes through? A Yes, sir.

Q Now, I show you a bullet, People's Exhibit 9 in evidence and I ask you if you can say from your knowledge and experience the caliber of that bullet? A Yes, sir; this is a thirty-two caliber Smith & Wesson bullet, the 85 grain bullet---this bullet weighs eighty-five grains---at the time they are loaded.

Q Can you say from your knowledge and experience whether or not that bullet---what type of shell or cartridge that bullet was used in? A That comes from a short shell.

Q A thirty-two short? A Yes, sir; that is a short cartridge.

Q Now, I show you People's Exhibit 10 and I ask you if you can state what caliber that bullet is? A This is a thirty two caliber Smith & Wesson bullet. This is a 98 grain bullet, showing it was from a long cartridge.

Q A 32 Long cartridge? A Yes, sir; 32 long cartridge.

Q So that these two bullets, People's Exhibits 9 and 10 while they are of the same caliber, are one short and one long? A Yes, sir.

Q And are known as the 32 long and 32 short cartridges respectively? A Yes, sir.

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Q And they are both Smith & Wesson? A Yes, sir; both Smith & Wesson.

BY THE COURT:

Q Can a long and short cartridge be discharged from the same revolver? A Yes, sir; the short can be discharged in the long cylinder.

BY MR. EDWARDS:

Q But the long cannot be discharged from the short cylinder?

A No, sir; cannot be discharged from the short.

BY THE THIRD JUROR:

Q I would like to ask how you distinguish between black powder and smokeless powder, by the mark? A In smokeless powder the range is not so far. It won't burn as far as the black powder. Black powder in leaving a revolver, there is always one third of it lost, and it is on fire leaving the pistol, and it burns right into the cloth at a greater distance than the smokeless powder. The smokeless powder will not set cloth on fire.

Q Suppose the smokeless powder had been fired closer, would not that offset the difference in the effect on the clothing?

BY THE COURT:

Q The juror wants to know apart from any range, if you see powder marks on cloth, how you would know it was black or smokeless? A The smokeless powder, it is a grayish black, but it does not burn like the black powder. It won't set fire to cloth over two inches away from it, where the black powder will up to

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eight or ten inches some times.

BY MR. EDWARDS:

Q What the juryman wants to know is this; you looked at this glancing wound in the shoulder of this coat and gave it as your opinion that it was made with black powder at a range of eight to nine inches? A Yes, sir:

Q What the juror wants to know is, assuming that this shot was fired with a smokeless powder, at a closer range, what would there be to distinguish it in your mind---is that right?

THE THIRD JUROR: Practically that---what distinguishes one from the other.

THE WITNESS: Smokeless powder would not singe it the way this is singed.

BY MR. EDWARDS:

Q No matter what the range is? A No, sir.

(No cross examination.)

MARGARET MARY EVERDEENE, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 38 West 10th Street).

BY MR. EDWARDS:

Q You give your address as 38 West 10th Street. What is that? A The Waverley House.

Q You have been confined in the Waverley House ever since your arrest, as a witness in this case, have you not? A Yes.

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sir.

Q You were also a witness in the McArdle case? A Yes,

sir.

Q How long have you been at the Waverley House? A Since December 7th.

Q December 7th? A Yes, sir.

Q How old are you? A Twenty one past.

Q How long have you known Willie Mott? A Six and a half to seven years.

Q Did you know Patsy Doyle before he was killed? A About three weeks.

Q Do you remember how you came to meet Patsy Doyle? A I met him through Willie Mott.

Q On the 28th day of November, Saturday, 1914, where were you living? A 355 West 43rd Street.

Q Who was living with you? A Frieda Horner and Laura Buckley.

Q How many rooms did you have there? A One.

Q And you three girls lived in one room? A Yes.

Q What floor was your room on? A Top floorfront.

Q You are familiar with Otner Brothers' Cafe, sometimes called Nash's, are you not? A Yes, sir.

Q You have been in there often? A Yes.

Q You have seen both Mott and Doyle there? A Yes.

Q How long before the 28th day of November was the last time

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you had seen Mott? A About two and a half or three weeks.

Q And where had you last seen him? A In Otner's place.

Q At Otner Brothers or Nash's? A Yes.

Q Now, on this Saturday, on this day, did anything happen that afternoon? A Yes, sir; I received a note from Willie Mott.

Q At about what hour was that? A 4:30 or five o'clock.

Q Had you received any word from him before that? A I received a message.

Q Who brought the message? A Red Lyons.

Q When you got this note, you say it was between half-past four and five, about? A Yes, sir.

Q Who brought the note? A Red Lyons.

Q When you received it what did you do, did you talk to anybody about it? A Frieda and Laura.

Q Your two roommates? A Yes.

Q After you talked with them what did you do, or, before you answer that question, tell me whether or not you know this defendant Wadden? A Yes.

Q How long have you known him? A I have known him about four and a half or five years by sight, but I was never very intimate with him.

Q After you had spoken to Frieda about this note you received from Willie Mott, what did you do? A I went down to 33rd Street and Tenth Avenue with Frieda.

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Q What was that? A The American Lunch Room.

Q What corner of 33rd and Tenth Avenue was that? Is it on the uptown side of 33rd Street or the downtown side? A The uptown side---west.

Q On the east side or west side of the avenue? A The west side.

Q That would make it the northwest corner? A Yes, sir.

Q When you went down there, had you ever been there before?

A Yes.

Q How recently? A The evening before.

Q Who had you seen there the evening before? A The defendant, Arthur Bieler, William Mulhall Owen Lawler and a few others, I cannot just remember their names.

Q When you speak of those people, do you mean they were all together or all just individuals? A Individuals.

Q Were they friends, do you know? A Yes, sir.

Objected to.

Q Were they acquaintances, do you know if they knew each other.

Objected to.

THE COURT: I will allow him to ask if she ever saw them talking to each other.

BY MR. EDWARDS:

Q Did you ever see them talking together? A Yes.

Q How often? A Very often.

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Q Now, when you got down to this restaurant, the American Lunch Room, as you call it, at the northwest corner of 33rd Street and 10th Avenue, whom did you see there? A Martin Ellis was the first one I spoke to.

Q Marty Ellis? A Yes.

Q Have you ever seen him in company with this defendant?

A yes, sir.

Q And with the others you have mentioned? A Yes.

Q And whereabouts was he in the lunch room when you got there? A He was standing in the door.

Q I have here a diagram, People's Exhibit 2 of the lunch room, which I now show you. This is Tenth Avenue here (indicating) and this is north that way and that is south down there. This is 33rd Street going west and here is the lunch room with the tables indicated on the diagram, and the two doorways in front with the lunch counter or service counter in the back---can you tell us which one of those doorwaysthat you see now towards you, Marty Ellis was in? A This doorway. (indicating).

Q The furthest north one? A Yes.

Q That is furthest away from 33rd Street? A Yes, sir.

Q Now, when you saw Ellis did you have a talk with him?

A yes.

Q Who did you see next? A The defendant.

Q Where did you see him? A He came along the street and turned into the restaurant.

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Q Now, when you got down to this restaurant, the American Lunch Room, as you call it, at the northwest corner of 33rd Street and 10th Avenue, whom did you see there? A Martin Ellis was the first one I spoke to.

Q Marty Ellis? A Yes.

Q Have you ever seen him in company with this defendant?

A yes, sir.

Q And with the others you have mentioned? A Yes.

Q And whereabouts was he in the lunch room when you got there? A He was standing in the door.

Q I have here a diagram, People's Exhibit 3 of the lunch room, which I now show you. This is Tenth Avenue here (indicating) and this is north that way and that is south down there. This is 33rd Street going west and here is the lunch room with the tables indicated on the diagram, and the two doorways in front with the lunch counter or service counter in the back---can you tell us which one of those doorwaysthat you see now towards you, Marty Ellis was in? A This doorway. (Indicating).

Q The furthest north one? A Yes.

Q That is furthest away from 33rd Street? A Yes, sir.

Q Now, when you saw Ellis did you have a talk with him?

A yes.

Q Who did you see next? A The defendant.

Q Where did you see him? A He came along the street and turned into the restaurant.

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Q He came along the street and turned into the restaurant at the same door you and Ellis were standing at? A Yes.

Q While he was there did anybody else come up? A Yes, sir.

Q Who? A William Mulhall.

Q Where did he come from? A I just don't know but he came along the avenue and went in.

Q Did he come from inside or outside? A Outside.

Q Did you have any conversation at that time in the defendant's presence with the others or with the defendant, with reference to this note? A Yes, sir.

Q What did you do with the note? A I gave it to Marty Ellis and he read it and handed it to the defendant.

Q Did the defendant read it? A Yes.

Q Tell us what was in that note?

Objected to.

BY THE COURT:

Q What became of the note after you gave it to the defendant? A They read it and returned it to me.

Q What did you do with it? A I kept it.

Q And what became of it? A That evening I gave it to Willie Mott.

THE COURT: Did he say he tore it up?

MR. EDWARDS: Yes, and threw it away.

THE COURT: Very well.

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BY MR. EDWARDS:

Q Tell us what you recollect was in that note? A It stated if I did not come up there that evening that he would come around and he would make a bum out of me and my friends, and wreck my camp.

Q Was there anybody else mentioned in the note besides himself? A No, sir.

Q Now, what if anything---what talk if any did you have with the defendant or these other men in the defendant's presence about that note? A He read the note and he handed it to Mulhall and he read it, and then he asked me was I going to let him get away with it, and I said "What else could I do?" And he said, "Well, he has been asking me to make a date with him and Patsy Doyle, and why didn't I make it, and asked was there any chance of having him and Patsy Doyle come up to our house. And I said no I didn't want any trouble. Then he said, "Well, have him up there and then you go out and telephone and then he walked away.

Q Did he say where to telephone? A To the restaurant.

Q Had you been at that restaurant often before? A Yes, sir.

Q Do you know whether you had seen the defendant there often? A Yes.

Q Was he accustomed to going in there frequently? A Yes, sir.

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Q Were you particularly friendly with any one of his acquaintances there? A Owen Lawler.

Q You were intimate with him? A Yes.

Q When you wanted to reach Owen Lawler or the defendant or any of his acquaintances on the telephone, where was it you were accustomed to telephone? A To the restaurant.

Q To this restaurant? A 33rd Street and 10th Avenue.

Q What was the telephone number of that restaurant, if you know? A Greely 6779.

Q Did you use that often? A Yes.

Q Had you frequently called the defendant there and talked with him on the 'phone? A Not very often.

Q Had you sometimes done it? A Once or twice.

Q After the defendant made this suggestion, what did he do? A He said to me to do whatever Marty Ellis told me and he left me and went in the restaurant.

Q Did Marty Ellis say anything to you after that? A Yes, sir.

Q What? A Marty told me to let them come up to the house, as he said, and to go out by way of something, and telephone, and let them know that they were up there. I said I did not want any trouble. He said, "If you don't, you know we don't like people down around here that have anything to do with them," and he said "It wasn't bad enough to let him hit you the way he did and he is bulldozing you now and trying to get you to go up there."

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Q Was anything said by the defendant with respect to what they would do if you telephoned to them, if you got Patsy and Willie up to the room? A They would come up there and clean them out.

MR. COLLIGAN: I ask to strike that out.

BY THE COURT:

Q Who said that? A The defendant.

THE COURT: She says the defendant said that.

BY MR. EDWARDS:

Q What did you do after you finished that last talk with Marty Ellis? A I returned to 355 West 43rd Street.

Q To your room? A Yes.

Q Who did you see when you got back there? A Frieda and Laura.

Q Did you talk with them? A Yes.

Q How long after that was it before you next went out? A About ten or fifteen minutes after I returned I went out and telephoned.

Q Whom did you telephone to then? A To Willie.

Q To Willie Mott? A Yes, sir.

Q At Nash's? A Yes.

Q What was Nash's number? A 2171 Bryant.

Q After you telephoned to Willie, where did you go? Did you get Willie's voice on the telephone? A No, sir.

Q Where did you go then? A I returned to the house again.

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Q How long did you stay there that time? A I did not stay long, just about a half an hour, may be a half an hour.

Q Then where did you go? A Then Frieda and I came down together.

Q Can you tell us ab ut what time it was you and Frieda went out together? A About 7:30.

Q Where did you and Frieda go? A We walked down 9th Avenue as far as 40th Street. I left Frieda there and she started down to 33rd Street and Tenth Avenue and I started up to meet Willie.

Q Where? A At 41st Street and 8th Avenue.

Q At Nash's saloon? A Yes.

Q Or Other's---did you go there? A Yes.

Q To which door of the saloon did you enter by that time?

A The 41st Street entrance.

Q I show you People's Exhibit 1, the diagram of Other's saloon and I ask you if you can point out on that diagram the door that you went in at; this is 8th Avenue and this is 41st Street?  
A This door. (Indicating).

Q The side door back on 41st Street near the rear of the bar room? A Yes, sir.

Q When you got there what did you do? A I stood at the door and I looked in and I saw Patsy and Willie standing inside at the bar.

Q Were they in front of the door so you could see them?

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A They were inside and there is a swinging door between and I looked over and saw them standing there and I beckoned for Willie and he did not see me and the bartender told him I was there and so he came out.

Q Did he come out and meet you then in the vestibule? A Yes.

Q What did you and Willie do then? A Talked a few minutes.

Q Was that the time you gave him back this note? A Yes, sir.

Q What else did you do? A We talked about the note and then he called Patsy out.

Q Did you have a talk with Patsy? A Had a talk with Patsy.

Q Were you talking with Patsy about this note from Willie?

A No, sir. About a letter that Frieda gave me to give Patsy.

Q Frieda gave you a note to give to Patsy? A Yes, sir.

Q That was what you were discussing with Patsy? A Yes, sir.

Q Did you deliver that note to him? A Yes.

Q Now then ~~xx~~ what did you do next? A Patsy read the note and then the three of us went into the back room and talked a few minutes and then I went to the telephone.

Q When you went to the telephone, did you call up a number?

A I called up 6779 Greeley, the American Lunch Room.

Q Did any one answer you on the 'phone? A Why, I don't

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know---some one answered and I told them to put Frieda on the wire.

Q Did you get Frieda's voice finally? A Yes, sir.

Q Did you talk to her? A I just said---

Q Do not say what you said---did you speak to her? A Yes sir.

Q After you had spoken to her what happened? A Patsy took the 'phone.

Q And did you hear him talk? A Yes.

Q After that, what happened? A He hung up the receiver and came to the back room and as he was coming in the 'phone recalled, and he went to the 'phone again.

Q Did you go back with him to the 'phone? A Yes, sir; I stood by the door between the back room and the bar.

Q Show us, if you will, on this diagram, where that telephone is? A It is right in by the lunch counter, right here.

Q At the end of the lunch counter, on the wall? A Yes, sir.

Q When Patsy went back, when the telephone recalled, where did you stand? A I stood right here by this 'swing door.

Q That is, in that door? A Yes.

Q That is the door from the main bar room into the back room? A Yes, sir.

Q Which is nearest the center of the bar room? A Yes, sir.

Q Not the one behind the bar? A No.

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Q Did you hear Patsy talking on the telephone? A Yes, sir.

Q Can you give us any idea about what hour that was? A That was at about five minutes to eight.

Q Then what happened after that? A Patsy came out and spoke to us a few minutes, and he left Willie and Malone and went away with Jim Keith.

Q Where did you and Willie go? A Willie and I walked out through the same door.

Q You mean the side door on 41st Street? A Yes, sir; and we walked towards 7th Avenue, in 41st Street.

Q How far did you go? A We walked about three quarters the length of the block and we met Jimmie Keith.

Q Where was Jimmie coming from, what direction? A He was coming from 7th Avenue.

Q That is, coming from the east going west---coming towards you? A Yes, sir.

Q Did he stop and speak to you and Willie? A Yes.

Q Then where did you all go? A We returned to Nash's.

Q When you got back to Nash's, what happened? A We went back again to the back room and Patsy came in. Patsy came in through the front.

Q Was Keith with you in the back room or was he out in front? A No, sir; as Willie and I walked in the back room Jimmie went through the swing door into the bar.

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Q And then Patsy came back into the back room---after that Patsy came back in the back room? A Yes.

Q What did you do then? A We talked awhile and Willie left us and I was talkin' to Patsy alone and then---

Q About how long did these conversations last? A A very few minutes.

Q Then what happened? A Then the bartender called Patsy and told him some one was looking for him.

Q Patsy went out of the back room? A Patsy went out and walked through the bar, but he came back again.

Q What happened next? A Willie told me to get out.

Q Did he do anything? A He put me out.

Q Through what door? A Through the same side door.

Q When you went out that door, in which direction did you go? A I came out this way, the same door that I entered.

Q You came out the most westerly door of the lobby, outside of this side door? A Yes, sir; I came from the back room this way.

Q And where did you go to? A Why, I started to walk right out straight.

Q And what if anything did you see? A I met the three boys.

Q What three boys? A Willie Mulhall, Arthur Bieler and Hoppe McArdle.

Q What is his real name? A John McArdle, I believe.

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Q They call him Hoppo as a nickname? A Yes.

Q Was he one of the men you have seen frequently in the American Lunch? A Yes.

Q Have you ever seen him in the company of the defendant?  
A yes.

Q Did you ever see Arthur Bieler down there at the lunch?  
A yes, sir.

Q Have you ever seen him in the company of the defendant?  
A yes.

Q Ever see Mulhall down there? A Yes.

Q And in the company of the defendant? A Yes.

Q Where were those three men when you first saw them as you came out of that door? A They were standing directly in front of the bootblack place that is right there near the corner.

Q Did either one of them speak to you? A Yes.

Q Which one? A Willie Mulhall.

Q What did he say? A "Is he in there?"

Q "Is he in there?"? A Yes.

Q What did you do? A I commenced to cry and I ran on the opposite side of the street.

Q You mean you ran to the south side of 41st Street? A Yes, sir.

Q And did you turn around and look behind you at all as you went there? A As I went to cross the street I looked back to see where they went.

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Q Where did they go? A As I looked back they were walking in the side door I just came out.

Q Then where did you go from there? A I ran right across-- I crossed 41st Street and then crossed 8th Avenue.

Q In which direction did you cross 41st Street from that side entrance, after you had seen these men as you say outside of the shoe black stand---I mean did you go straight south or go diagonally or did you go along? A I walked up towards this way and they were standing right there (Indicating) and Mulhall stepped in front and he spoke to me and the other two followed and they passed me right out and I crossed to the cigar store corner.

Q Were you crying all the time? A Yes.

Q In which direction---where did you go from that corner?

A I ran across 8th Avenue then into the Brighton Club Rooms.

Q As you went across that street and crossed 8th Avenue did you hear anything? A As I crossed 8th Avenue I heard two shots.

Q Anything else? A Then several shots---and the crash of glass.

Q You went over to the Brighton Club? A Yes.

Q How long did you remain there? A About three quarters of an hour.

Q From there where did you go? A From there I walked down through 41st Street to 9th Avenue, and up to 43rd, up to my room.

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Q Who was there when you got to your rooms? A Frieda and Laura.

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

Q And then what did you do? A We got dressed and went out and telephoned.

Q And who telephoned? A I telephoned.

Q What number did you call this time? A Greeley 6779.

Q That was the American Lunch Room? A Yes, sir.

Q And who did you get on the telephone? A The defendant.

Q The defendant? A Yes, sir.

Q What talk did you have with the defendant on the telephone? A I did not have much of a talk. He said "Come down", he cannot say much over the wire.

Q And did you go down then to the American Lunch Room? A Yes, sir.

Q Did Frieda and Laura go with you or did you separate? A We separated at 34th Street and 9th Avenue and I walked down to 34th Street, and they said they would meet me in the middle of the block.

Q And did you go to the American Lunch Room then? A Yes, sir.

Q And then when you got there, whom did you see? A The first one I met was Owen Lawlor.

Q Where did you see him? A At the restaurant.

Q But inside or outside? A Inside, I called him out.

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Q And who else was there at the time? A Why, Willie Mulhall and the defendant.

Q A little louder? A Willie Mulhall was there, and the defendant, Mulhall and Billy Tamany.

Q Who was that last? A Billy Tamany.

Q Was he a man whom you were accustomed to seeing there?  
A Yes, sir.

Q That is, have you ever seen him in the company of the defendant? A Yes, sir.

Q Who else? A Bieler was there.

Q Any one else? A I cannot remember, there were a few people there I do not know.

MR. COLLIGAN: Your Honor, it is impossible for me to hear this testimony.

THE COURT: Yes, if you will only raise your voice, you see those gentlemen over there, they have to lean forward.

Q Well now, did you talk to the defendant there? A Yes, sir.

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

MR. COLLIGAN: Kindly tell me where this was, I did not hear it.

(The preceding part of the record was read by the stenographer to counsel).

Q Keep your voice up. What was the talk you had with the defendant there. A We walked over from the restaurant and went

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into the cafe on the opposite side, by 33rd Street and 10th Avenue.

Q Tell us who you mean when you said "We"? A The defendant, Owen Lawlor and I.

Q Just the three of you? A Yes, sir.

Q Tell us what talk you had together there, with this defendant? A He asked me why I was crying? I told him I was crying because I was all excited, and he wanted to know ---was it not on account of patsy, was it because we shot Patsy. I said "No, you did not only shoot him you killed him." He said, "Are you sure of what you are saying?" I said, "I am positive". He said, "How do you know?" I said "One of the boys from the club told me, the Brighton Club, went over and told me and he says---

Q Was that all? A He asked me what I was going to do about it.

Q Who did? A The defendant.

Q What did you say to that? A I said I would do whatever he told me.

Q Did he say anything more about your crying? A Yes, he told me to stop it, that I would put anybody wise on account of being a frequent visitor to Nash's, and at their place, it would look very suspicious if any one seen me crying.

Q Well, now, tell us what happened next? A Laura and Frieda came down and when I had been in half an hour they came down, and Laura was ill, so the boys told us to take her to the hospital and to meet them later on, and he gave us a ticket to

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a dance that was up in Moosé---

MR. COLLIGAN: Just a moment, your Honor. I respectfully request that "he" be designated, that she should tell us who told her to take Laura to the hospital, and the man who gave her the tickets.

BY THE COURT:

Q If you can remember, who was it who told you to take her to the hospital? A The defendant said "Take Laura to the hospital and we will meet you later on in the evening."

Q Who was that? A William Mulhall gave Frieda the tickets, he gave Frieda the tickets.

BY MR. EDWARDS:

Q How did he come to do that? A Well, the defendant said, "We will meet them later on uptown" so he wrote the directions on the back of the ticket and gave it to Frieda.

Q Mulhall did that? A Yes, sir.

Q Was that after the defendant said he would meet you uptown? A Yes, sir.

Q Then what did you do then? A We met the boys on 10th Avenue and 33rd Street, we walked up to 7th Avenue, Laura, Frieda and I took a car to 23rd Street, and then over to Bellevue.

Q And did you leave Laura at Bellevue? A Yes, sir.

Q Can you tell us about what time you left there to go uptown? A It was about 10:30---to go uptown?

Q And then when you left Bellevue there, after leaving Laura

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to go uptown? A It was about quarter past eleven then.

Q And where did you go then? A We took the Third Avenue El and went uptown and got out at some street up there, in One hundred and sixth Street, or something, and then took a cross town car over to Jerome Avenue and transferred up to the Moose Inn.

Q And when you got to the Moose Inn, what did you find?

A We found that the dance had been over, so we telephoned down to the restaurant.

Q Who telephoned this time? A I telephoned.

Q What number did you call? A 6779 Greely.

Q The American Lunch again? A Yes, sir.

Q Who did you get on the telephone first? A The defendant.

Q And what talk did you have with the defendant then? A Come down to the restaurant, just a few words, and Frieda took the telephone and spoke.

Q And then where did you go after that talk? A We took the Jerome Avenue car down to 155th and Ninth Avenue---to 34th, and then down into the restaurant.

Q Can you give me any idea of what time you reached the restaurant? A It was about a quarter past one.

Q And when you got there, who did you find? A The defendant---Owen Lawlor, and a few other boys was there, I cannot just remember who they were.

Q When you say a few other boys, do you mean strangers? A

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No, sir.

Q Who do you mean? A I mean boys that were in the habit of sitting in there.

Q All of them were these boys that you had seen frequently with the defendant? A Yes, sir.

Q Well, what did you do then? A I talked with the defendant awhile.

Q Tell us what conversation you had with him? A He asked us where we would go, and we said to go home, and he said, "Not to go home" that he knew the detectives would be looking for me on account of being up there a few minutes before the shooting.

Q Up where? A 41st Street and 8th Avenue. He said he knew they would be looking for me, but he was not so sure about them getting Frieda, and that if they see me down there in their company again it would look very suspicious, and that we had best do what they told us, and come where they wanted us.

Q And then what happened? A So the defendant telephoned to some restaurant, I do not know just where and asked for Dodo Fitzsimmons, and he said---

Q And then after that what happened? A After what?

Q By the way, did you know Dodo Fitzsimmons, know who he was? A I heard the boys speak about him, but I had never met him.

Q Never met him? A No, sir.

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Q And then what happened? A Dodo Fitzsimmons came over with Arthur Stein, in a taxicab.

Q Arthur Stein, had you known him before, had you seen Stein before? A Yes, sir.

Q What nick names does he go by? A The King.

Q And did you see how Dodo and the King got to the restaurant? A In a taxicab.

Q Did you know the chauffeur of the taxicab? A I had heard the boys speaking about him, but I had never met him until then.

Q What was his name, if you know? A Abe.

Q Now, did any other party from the taxicab come into the restaurant? A The King, and Dodo Fitzsimmons came in.

Q Can you show us on this diagram where you were sitting with your party in the restaurant, at the time that Dodo Fitzsimmons and the King came in? (Handing diagram to witness) A I was sitting at this second table. (Indicating).

Q You say at the second table on the north wall? A Yes, sir.

Q That is the one you are pointing out, and second from the front? A Yes, sir.

Q Who was with you at that time? A Owen Lawlor, and I was sitting there, and Frieda was sitting over there, and the defendant had moved, and sat over there with Frieda.

Q Can you tell us whereabouts in the restaurant Dodo Fitz-

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simmons and the King came when they came in? A They came in this door (Indicating).

Q The one nearest 33rd Street? A And walked over this way and the defendant came over and met them.

Q Did you hear what any one said at that time? A "What is the trouble," Dodo Fitzsimmons said.

Q Yes, and what was said to them by any one? A The defendant said, "We will have to lay low for a few days. We dropped a guy up in 41st Street and 8th Avenue, and we would like to go over to the King's flat and bring the girls over there and keep them for a week or so."

Q Well, what was said by any one to that? A Dodo Fitzsimmons answered saying that he had heard about some trouble up there, and he agreed to what the defendant said about going over to the King's flat.

Q And then what did you all do? A Frieda and Laura, the defendant, the King and Dodo and I got in the taxicab.

Q Yes? A And went over to the King's flat.

Q Where is that? A It is over 236 or 238 West 30th Street.

Q At West 30th Street? A Yes, sir.

Q That would be on the south side of the street, would it not? A Yes, sir.

Q Well, have you any idea of about what time in the morning you got there? A It was about quarter past two.

Q Now, when you arrived there, what floor was the King's

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flat on? A Well, he is on the ground floor. There was only one family downstairs.

Q And did your whole ~~family~~ <sup>party</sup> go into the flat? A Yes, sir.

Q Dodo and the King go in with you? A Yes, sir.

Q And the chauffeur, Abe, did he come in? A Yes, sir, as far as the door, and then Arthur Stein and Dodo took a few minutes and talked with the defendant and Lawlor in the front room.

Q In the front room? A Yes, sir.

Q Now, I show you a diagram, People's Exhibit Number 3, of the King's flat and ask you---you are now looking into the hall door, the main hall door of the building. There is the vestibule here. Here is the hall in blue. That is the parlor, so marked in the diagram. Here is a bed room, here is another bed room, here is what they call a living room, with a gas stove in it, and with a sink. Here is a little room here, and here is a toilet and bath across the hall; can you tell us in which room this conversation took place between Dodo Fitzsimmons, the King and the defendant Wadden? A The front room. (Indicating).

Q Where were you girls when that was going on? A As we walked in the house we walked straight out into the kitchen.

Q That is, you walked straight back in through the two bed rooms into the living room which you call a kitchen? A Yes, sir.

Q Did you hear any of that conversation between the men in

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the front room? A Not then, no, sir.

Q And then what became of that party of men? A Arthur Stein and Dodo Fitzsimmons left, left the defendant and Owen Lawlor and Frieda.

Q In the flat? A Yes, sir.

Q What happened next after they had gone and left you four, the two Owens, Owen Lawlor and Owen Madden, and you two girls together? A We all went out in the kitchen, the living room, rather, and sat down by the table, and started to talk.

Q Yes, who did the talking? A Owen Lawlor---pardon me Owen Madden asked me who I had seen in there, in the saloon.

Q Yes. A I repeated the three boys' names.

Q As the three you saw there? A Willie Mulhall, Arthur Bieler and Hoppie McArdle, and he said, "How sure are you that you had seen the three of them come in there?" I said, "I am positive." He said, "Are you sure you did not see five come in?" I said "No, I only seen three." He said, "Did you see me out at the corner?" I said "No." He said, "When you ran across the street crying, didn't you see me?" I said, "No." He says, "Do you remember bumping into anybody on the corner?" I said "Yes". He said, "That was me." I said, "I did not see you" and he said, "Well, are you sure that those <sup>on the</sup> three that you have seen going in?" And I said "Yes." He said, "Well, if you are as sure"---he says, "of saying that you did not see them, as you are of saying that you did see them, things will be all right. If you will stick

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to saying you did not see them as good as you did see them."

Q Now, was anything else said? A Why, he asked us would we stay there in the flat for a week, in that apartment, and not go out, and that we would have everything we wanted and we would not want for anything, and we could stay there until the thing blew over, and we refused, saying no, that Laura was in the hospital and we was the only ones she had to visit her, and we insisted on going to see her.

Q Anything said about that? A The defendant said that if we went out and met anybody that we should not say anything, that we should return to the flat when they told us to, and be very careful where we went and who we spoke to and what we talked about, and asked what religion I was. I told him a Catholic. He wanted to know would that make any difference in my statements, in case I was taken as a witness, and I said "No." I would do whatever he told me, so he said, as before, to stick to saying that as I came out of the door I seen some people standing there and I did not know anything about them, who they were or what they were.

Q And was anything said about the police? A That if I was taken as a witness, and I stuck to saying that I did not know any one there, that I did not know him or anything concerning the case, that I would surely get out of it, no matter how long I was detained as a witness, I would get out of it; that I would always find a friend in him and in any of his crowd, meaning

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the boys at 10th Avenue and 33rd Street, and I would always have a good friend down there, anything I wanted, and he knew if they took him that he would get out of it, and that if I stuck to what he told me to say, that I might surely get out of it no matter how long I was detained, and that money or anything else would be no object.

Q Now, will you go back for a moment to when you were in the restaurant, before Wadden called up Dodo Fitzsimmons, and the King, what were you all doing in there at that time? A We were reading the papers about patsy's death, and the defendant said that we had better stop reading the papers, and I had better stop my crying, because if any one should come along and see me sitting in there with him and crying, he repeated the same---that it would look suspicious, and especially reading the papers, and that we had better stop reading the papers, and get out of there.

Q Was anything said either in the restaurant, or in the King's flat, with respect to any particular police officer? A Yes, sir; Mr. Flood.

Q What was said about him?

MR. COLLIGAN: Who?

Q Flood? A He said he would meet with the same as Patsy Doyle if he monkeyed about that bunch much longer, that they would not tolerate with it.

Q Now, was anything further that you now recollect said

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by the defendant to you at King's flat? A Not there. He did say something in the cafe.

Q What was that? A He said when I stepped in the ladies' room, I heard him say "Frieda, if I thought that she told you any more about who she has seen in there, I would take her up the Hudson tonight and croak her and throw her overboard."

Q When you had finished this conversation in the King's flat that evening, that you told us about, what did you do? A We went to bed.

Q Now, this room, this flat, has in it two bed rooms, apparently. Which room did you occupy? A The front bed room.

Q That is the bed room just behind the room marked "Parlor"? A Yes, sir.

Q And who occupied that room with you that night? A Owen Lawlor.

Q And what room did Frieda sleep in? A She slept in the room off the kitchen.

Q And who occupied that room with her? A Owen Madden.

Q The defendant? A Yes, sir.

Q There is a window marked here, right between the living room which you call the kitchen, and the bed room, which you say Frieda was in, was there any glass in there at that time? A No, sir; there was no glass at that time.

Q It was just open? A Yes, sir.

MR. COLLIGAN: What is that?

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Q This window here? (Indicating) This window of this bed room, between this bed room and the parlor, how was that that night? A There was a window there, a glass, and a curtain.

Q Was there glass in that window? A Yes, sir.

Q But there was none in this one between the rear bed room or the kitchen or living room? A No, sir.

Q Can you give us any idea---

THE COURT: Let the jury see that diagram.

MR. EDWARDS: This is the flat of the man known as "The King". It is a flat of four rooms, the parlor in front, another bed room, and this is the window that she said had no sash in it, just note that. (Showing exhibit to the jury).

BY MR. EDWARDS:

Q Can you give us any idea of what time it was when you went to bed? A It was about 3:30 A.M.

Q Did anything happen to you in the morning, that early mornin', that you now recollect? A About between five and six, Arthur Bieler came in, came to the door, the defendant got up and let him in.

Q Who got up? A The defendant.

Q And what room did he go into? A Into the kitchen, through the back door.

Q With the defendant? A Yes, sir.

Q That is, into this room that you call the living room or kitchen? (Indicating) A The kitchen, yes, sir.

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Q And what did Owen Lawlor do then? A He got up and went out there too.

Q And what did you do? A I got up and went into the other bed with Frieda.

Q And how long did Bieler remain there talking to the others? A Oh, he remained there for the rest of the morning.

Q The rest of the morning? A Yes, sir.

Q Did you hear any talk between them, between the defendant and Bieler or between the defendant and Lawlor and Bieler? A The defendant said to Bieler, "She has seen you up there" and he says, "Did she say any more?" And he said, "Yes, she has seen you all up there, but she didn't see me." And he asked Arthur Bieler where he got the guns and he told him that he got them, Jimmie O'Connell got them for him.

Q Who was Jimmie O'Connell, do you know? A Why, he is an errand boy for the defendant.

MR. COLLICAN: I object to that.

THE COURT: Sustained.

Q Where have you seen him? A I have seen him in the restaurant.

Q Have you seen the defendant talk to him? A Yes, sir.

Q What, if anything, have you seen him do for the defendant? A Anything he told him.

Q Now, go on with this conversation between Owen Lawlor and Owen Madden, and Arthur Bieler, what else did you hear, if anything

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A The defendant said something about Patsy being dead, and Arthur Bieler said, "Yes, we have got him right through the heart."

He asked, "Did you know he was dead?" And he said, "Yes, we got him right through the heart."

Q Now, then, what did you do when you heard that? A When I heard that. I got up and walked out to the door, between the bed room and the kitchen and stood---

Q When you say that, what door do you mean? A This door (Indicating).

Q This door that is right between the bed room next to the kitchen and the kitchen itself? A Yes, sir.

Q Now, tell us what happened when you walked out there? A I stood there a few minutes, and the defendant came and told me to get back in the room. He said, "I know you don't mean any harm by getting up and coming out," but he said, "We would rather you would not be out there" and he said, "Don't get sore," he says, "Come in and don't ever do that again when we are speaking, don't ever intrude."

Q Anything else? A I cannot remember.

Q Was anything said to you about what you knew or did not know? A He said "It is too much for your size and it ain't doing you any good to know it."

Q Now, the next morning was Sunday morning, was it not? A Yes, sir.

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Q How did you spend Sunday? A Sunday afternoon?

Q I suppose you slept all Sunday morning? A Well, we went back to bed then and Arthur Bieler came in and lay down in the same bed with Owen Lawlor and I.

Q How long did you stay in bed? A Until about 1:30.

Q That is, in the afternoon of Sunday? A Yes, sir; and then Frieda and I got dressed and went down and see Laura, we were there at two o'clock, at the Bellevue Hospital.

Q At the Bellevue Hospital? A Yes, sir.

Q And what time did you get back that afternoon? A We got back about seven o'clock.

Q And what did you do Sunday evening? A Why, we stayed in the house. The two girls came up in the house over there, two friends of Arthur Stein's and we spent the evening until about ten o'clock in the house, and then we suggested going to Tammany Hall.

Q Who suggested it? A We all did, I cannot remember.

Q Who was in the party? A Owen Lawlor, the defendant, Frieda, Arthur Bieler and I.

Q Did you go to Tammany Hall? A Frieda and I left the house alone and went down and the defendant said that if he did not notice us while we were down there, not to get angry, that he did not mean anything by it, that it was simply to clear ourselves, that we would not be seen together, on account of what happened the night before, knowing that Frieda and I were friends

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of Patsy's and of his also, and not to be angry if they did not pay any attention to us.

Q Then you and Frieda went out together? A Frieda and I went down alone together.

Q Where did you go to? A To Tammany Hall.

Q Did you dance there that night? A Yes, sir.

Q Did you see the defendant down there? A The defendant and Owen Lawlor, Arthur Bieler and Willie Mulhall, and two girl friends of Mulhall's and Arthur Bieler's were down there, together in a group, and Marty Ellis, and a few more that I did not know.

Q And did the defendant speak to you and Frieda down there at all that evening? A No, sir; during the dance he did not speak to us at all.

Q Now, where did you next meet him to talk to? A Our next meeting was outside of Tammany Hall, about---after the dance.

Q And who were with him when you met him and who was with you? A Frieda and I were together and the defendant was with Owen Lawlor, walking with Owen Lawlor and Willie Mulhall, and his lady friend, and Arthur Bieler and his lady friend were in the group, and they walked in front of us, so the defendant, and Owen Lawlor turned around and walked with Frieda and I and then we took a car, and transferred up 8th Avenue to the King's house again.

Q And did this whole party go up there? A No, sir; Marty

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Ellis left us, and Willie Vulhall, and his lady friend, and Arthur Bieler and his lady friend left us at 34th and 8th Avenue and Marty Ellie rode up in the car as far as 30th Street with us, and stayed on the car, the defendant, Owen Lawlor, Frieda and I and another fellow named Harris Whitey,---I don't know his name.

Q You call him Whitey Harris? A Yes.

Q And where had you met him? A I had never met him before until that evening.

Q You five went back to the King's, you say? A Yes, sir.

Q When you got back to the King's, did you have any conversation again with this defendant? A I went over about the same conversation I had the night previous, about what I was going to say when I came downtown, if I was taken, and was I going to stick to what he told me---about the same thing.

Q What did you say to that, when he asked you that? A I told him I would.

Q Now, going back again to Saturday evening, in the King's flat, for a minute; have you told us all that you can recollect about your conversations with the defendant that evening, or that early Sunday morning, rather? A I cannot remember, Mr. Edwards.

Q Do you recollect whether anything was said, any question was asked by the defendant of you, with respect to whether Willie had said anything about seeing him or not? A He asked me if

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*Mott*  
Willie Mulhall had said anything to me about seeing him up there that afternoon, on November 28th, and he said he passed him through the bar, looking for a fellow with two gold teeth, meaning Patsy Doyle, and he failed to see him, nor did he see any one up there who he thought was a pal of Patsy's, in fact he did not see any one who knows him.

Q Was Frieda there at that time? A Yes, sir.

Q Do you remember anything that was said by her? A Frieda asked him what did he want---what he wanted to see patsy Doyle about, something to that effect, I cannot remember.

Q And do you know what he answered?

MR. COLLIGAN: I respectfully suggest it is not possible to give an answer to a question she does not understand. She says she does not remember, it is rather forcing an answer about something she knows nothing about.

THE COURT: She might remember the answer, if she did not remember the question.

MR. COLLIGAN: I take an exception to that ruling.

BY MR. EDWARDS:

Q Do you recollect any answer made by him to any question *from* about Frieda? A I remember Frieda asking him what he did he want him for, but I cannot remember just what he answered.

Q Did he say in the course of this conversation whether he was up there alone or not? A I don't know, Mr. Edwards. He said he passed through there twice that afternoon.

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Q That is what I meant; you say he passed through twice by himself, or did he have any one with him? A He said he passed, he passed in there twice.

MR. COLLIGAN: I do not understand who she refers to.

THE WITNESS: Owen Madden passed through Nash's cafe twice that afternoon, he said, looking for patsy Doyle, with two gold teeth.

BY MR. EDWARDS:

Q Did he say why he was looking for him at any time? A I can't remember that he said anything then, but he did say it before he told me that he wanted to see patsy Doyle, that he heard he was down there Dewaney's cafe looking for him, and that <sup>Many</sup> ~~Morrie~~ O'Donnell had carried a message to patsy Doyle, to tell Patsy that he would---that it was through him that he got out of that last---he was in a fight with some fellow named Tony Romillo, or something like that---it was through him that Patsy got out, that he told "T" not to rap.

BY THE COURT:

Q "T"? A That was the name of the fellow that was <sup>assaulted</sup> arrested.

Q Romilleo? A I cannot say for sure, but it sounds something like that.

BY MR. EDWARDS:

Q He said he told "T" not to rap? A He said that he told "T" not to rap, that their bunch would get Patsy, to let him get

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out, that they were looking for him, that he was a rat, and that in every little argument or fight he ever got into he always hollered cops, and they did not like that kind of fellow around their neighborhood, or in their company at all, and that he was just dying to get a whack at him, pardon the expression.

Q Now, did he say anything to you about your conduct in that connection? A He wanted to know if I was up to Times Square dance with Patsy Doyle, and Marty, and O'Donnell, and I said "Yes, I was up there, at the night of Honey Moore's benefit," and he said there was a lot of detectives up there that night and I said "Yes". "Well," he said, "I advise you to stay away from Patsy Doyle, and the Times Square Club, and Willie Mott too, if he is a friend of Patsy's, for sooner or later we are going to crash in on that Times Square Club and clean up the place, and we will get Patsy Doyle in the mean time."

BY THE COURT:

Q When was it he said that? A He said that to me in the King's house---no, he said that to me in my house, when I was living up on 8th Avenue and 46th Street.

Q When?

BY MR. EDWARDS:

Q How long before the night Doyle was shot? A About three weeks before, two weeks before the shooting.

Q Now, do you recollect when it was that Patsy was arrested for the Romanello fight? A Why, I do not know when he was at-

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rested, but I remember in October, some time, I believe it was the latter part of October, I know he was in the Tombs, I went down with Willie to see him.

Q That was the latter part of October? A I am not positive, but it was in the month of October some time.

Q Do you remember about when it was that he got out of the Tombs? A I think he came out the last week in October.

Q Now, how long since is it you have lived at home? A Well, I have not lived at home, I have been on and off, two or three weeks at a time to stay, but I have not lived at home in the past four or five years.

Q You are married, are you not? A Yes, sir.

Q And you were married when? A I was married February 8th, 1911.

Q And when did you leave your husband? A June 30th, 1913.

Q And since that time how have you lived? A Why, I have lived by myself or over with my people, on and off.

Q I mean how have you earned your living? A I worked.

Q All the time? A Not all the time, no, sir.

Q And when you were not working, how have you made a living?

A I was living with Harry Murphy, 758 8th Avenue.

Q Yes, and you have lived with other men, have you not? A No, sir.

Q Have you been a prostitute? A No, sir.

Q You have always lived somewhere and either worked, or

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been living---A With that one party.

Q With some one man? A Yes, sir.

Q And you have not lived at home since the date you have given us? A No, sir.

CROSS EXAMINATION BY MR. COLLIGAN:

Q How old are you? A Twenty one, past.

Q Where were you born? A New York.

Q At what age did you leave school? A Thirteen and a half years.

Q What did you do after leaving school? A I worked for F. W. Woolworth and Company for three years.

Q In what capacity? A 585 8th Avenue.

Q What did you do, the character of your work? A Sales lady.

Q As a sales lady? A Yes, sir.

Q That is until you were about sixteen years of age? A Yes, sir.

Q What did you do then? A After I left Woolworth's, I went to work in 265 Steinway Avenue, in the Woolworth store, Long Island City.

Q And what age were you then? A Sixteen.

Q What age were you married? A I was married when I was seventeen.

Q Seventeen? A Yes, sir.

Q How long did you lived with your husband? A I lived with

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my husband until the 30th of June, 1913.

Q Where? A 138 East 41st Street.

Q What was your husband's business? A My husband's?

Q Yes? A He worked for A. F. Gilsey, real estate, book-keeper.

Q Is he living? A Yes.

Q How long have you lived with him? A I lived with my husband from the 9th day of February, 1911 to the 30th day of June, 1913.

Q And then with whom did you go to live? A I went to my people in Long Island.

Q How long did you remain there? A I remained with them from June until January.

Q January, 1914? A Yes, sir.

Q What did you do then? A I left them and went to work for J. A. Stevenson, 13 West 27th Street, dressmaker's shop.

Q In January, 1914? A Yes, sir.

Q How long did you remain with that concern? A Until Thanksgiving, Thanksgiving week of 1914.

Q 1914? A Yes, sir.

Q How long had you known Doyle? A Who?

Q Doyle? A I knew him about three weeks before he was killed, three or four weeks.

Q And how long had you known Willie Mott? A Six and a half or seven years.

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Q How many fellows had you lived with during the last three years? A One.

Q Who? A Harry Murphy.

Q And you have known Willie Mott for how long? A Six and a half or seven years.

Q Six and a half or seven years? A Yes.

Q Have you ever lived with Willie Mott? A No, sir.

Q Never? A Never.

Q Did you ever have any illicit relations with Willie Mott?  
A Yes, sir.

Q For how long a period? A One night.

Q What? A One night.

Q One night in your entire life? A About six nights in my entire life.

Q In your entire life? A Yes, sir.

Q You had trouble with Mott, had not you? A Yes, sir.

Q And he struck you, did not he? A Yes, sir.

Q And when you were arrested, you were sent to the hospital, were you not? A Yes, sir.

Q You were afflicted with syphilis, were you not? A No, sir; I had a positive Wasserman test, but not syphilis, to my knowledge.

Q Were you not sent to the hospital, on the application of the District Attorney, because of that reason? A I was sent there for having a positive blood test, Wasserman test, but to

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my knowledge, it was not syphilis.

Q To your knowledge? A To my knowledge.

Q But it was at the instance of the doctor you were sent there, was it not, after examining you? A Yes, sir.

Q And it was a report of the doctor's at Bellevue Hospital?

A Yes, sir; a positive Wasserman test is not syphilis.

Q You are a specialist in that line? A No, sir.

MR. EDWARDS: I object to that question.

BY MR. COLLIGAN:

Q Now, you use cocaine, also, don't you? A No, sir.

Q Are you positive of that? A Positive.

Q When was the first time that you met Owen Madden, the defendant, when first did you meet him? A The first time I met him was about four or five years ago.

Q Where? A At Cunningham's Hall.

Q Where is that? A 36th Street and 9th Avenue, at a dance that he was running himself.

Q Then, there is a Cunningham's Hall at 36th Street and 9th Avenue, is there not, on the corner? A Yes, sir; it is known now as Fisher's since I have been there.

Q It has been closed for some time, has it not? A I don't know; I have not been over there.

Q That is where the hall is located, at that corner? A 36th Street and 9th Avenue.

Q Did you speak to him on that occasion? A No, sir.

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Q Did you speak to Madden on that occasion? A No, sir.

Q How many years ago was that? A Four and a half or five years ago, I am not positive of the time.

Q Well, I asked you when you first met him, I mean when you first met him to talk to; when did you first meet him with an introduction, if any? A Well, I cannot remember. I met him at several dances and spoke to him. I was acquainted with his wife.

Q For how long a period? A What?

Q How long have you known his wife? A I have known his wife for about the same time, a little less.

Q When was the first time that you ever went out with Madden and remained overnight? A It was in the latter part of October, from Plaza Hall at 59th Street, there was a dance over there.

Q Who was there? A Owen Madden was up there with Arthur Bieler, and they got put out.

MR. COLLIGAN: I ask to have that stricken out.

BY THE COURT:

Q Who was there? A I was in the company of Martin Ellis, Laura Buckley, and Willie Vulhall, and I left Plaza Hall, with Owen Lawlor and Martin Ellis, and Laura and I went down to a cabaret at 36th Street and 6th Avenue, around that neighborhood, I cannot say, I am not positive of the place, and there we met Owen Madden and a few others.

Q When first did you remain out at night with Madden? A

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That night.

Q On that occasion, where did you go? A Over to where I was living, 163 East 39th Street.

Q Were you living alone at that time? A Laura and I were living together.

Q For how long a time had you lived with Laura? A About three weeks.

Q Where did you live before that? A Before that?

Q Yes? A I lived 688---no, I was at home before I went there.

Q How many different places have you lived during the last two or three years? A A couple of dozen.

Q And you moved from one place to another? A Occasionally.

Q And you moved from one place to another on the day of the shooting, did not you, too? A The day of the shooting?

Yes?

Q/A Yes, from 355 West 43rd, to the King's flat.

Q And about three or four days prior to that you had moved into 43rd Street, a single room, had you not? A The murder was on Saturday, and the Tuesday before I moved from 788 8th Avenue to 355 West 43rd Street.

Q So you were ~~where~~ always moving from place to place, in fact, in two years, you have lived in two dozen places? A I am not positive, you know, of th places, but about that.

Q Approximately? A About that.

Q Now, as a matter of fact, the first night that you were

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out with Madden, it was on Thanksgiving afternoon, was it not, that is, Thursday afternoon before the shooting? A No, sir.

Q Did you see him Friday? A Yes, sir.

Q Where did you see him on Friday? A Down in the restaurant.

Q Did you see him on Friday evening? A It was Friday evening I am speaking of.

Q For how long a period were you speaking to him on Friday evening? A Why, I was in his company for three or four hours.

Q Were you? A Well, from the restaurant, we went over to Dewaney's cafe.

Q Who was present at the time? A Frieda, Laura, Owen Lawlor, Willie Mulhall, the defendant and myself.

Q Did you have any conversation at that time relative to the shooting? A Yes, sir.

Q Who held the conversation? A The defendant did. He said, "This is the place where that Patsy Doyle looks for me, I wish he would come in while I am in here, I would show him what I would do to him."

Q Do you know whether or not Madden knew Doyle? A I cannot say that he knew him.

Q He never told you that he knew him, did he? A He told me he was looking for him, he said he was looking for him.

Q He never told you that he knew him, did he? A No, sir.

Q And you do not know whether or not he did know him, do

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you? A No.

Q Now, as a matter of fact, you know, as a matter of fact he did not know Madden? A No, I do not know at all.

Q Or Madden did not know him? A I didn't know it.

Q What did you do on that Friday night, that is the night prior to the shooting? A The night before the shooting, we sat in Dewaney's cafe, with the people I mentioned, we drank till about 1:30 or 2 o'clock.

Q You are accustomed to drinking quite a great deal, are you not? A No, sir.

Q Did you ever see Madden take a drink of liquor? A No, sir.

Q Never did? A No, sir.

Q And how many years have you known him? A Four and a half or five.

Q And it is your custom to become intoxicated very frequently, is it not? A No, sir.

Q As a matter of fact, you were quite intoxicated before you went to bed the morning after the murder, were you not? A Yes, sir.

Q There was a great deal of liquor drunk there, and a great deal of wine? A Yes, sir.

Q And as a matter of fact you were somewhat intoxicated the following evening, when you went to Tarrany Hall, were you not? A No, sir.

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Q Well, you were intoxicated when you came back from Tammany Hall? A No, sir.

Q Did not you use a great deal of liquor that night? A No, sir.

Q Did not you consume practically all of the liquor that was in the King's flat? A Not exactly at that time.

Q Did you leave some? A Yes.

Q There was a great deal there? A About four bottles of wine.

Q Very little left? A Yes, there was quite a little left.

Q And a great deal of liquor there, before you consumed it? A No, sir; four bottles.

Q Four quarts of whiskey? A I don't know how many quarts there were, there was four bottles.

Q Who consumed the four bottles of whiskey? A There was no whiskey, it was blackberry brandy, Kzaddx, Frieda, Owen Lawlor, Hopple, two young ladies that came in to visit the King and one that had been there, making three, and I.

Q Now, as a matter of fact, there were four bottles of whiskey, a bottle of cognac, and a dozen bottles of wine, were there not? A I did not see them if they were there.

Q But you consumed what was given you? A No, I did not consume---I took what I wanted.

Q Now, the afternoon you received a message? A What afternoon?

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Q The afternoon of the day the shooting occurred? A Yes, sir.

Q From whom did you receive that message? A Willie Mott.

Q Willie Mott? A Yes, sir.

Q And Willie Mott is the man with whom you were going around at that time? A Yes, sir.

Q That is, when you were not sleeping with some one else?

A I beg your pardon.

Q What did you do on receipt of that message? A On receipt of that message I went up and showed it to Frieda and Laura and came down and brought the note down to the restaurant, 33rd Street and 10th Avenue.

Q Now, who was in the restaurant at the time you reached there? A I don't know who was in there, but Marty Ellis stood in the doorway and took the note from me---at least, I handed it to him.

Q What did you say to Ellis when you gave him that note?

A I asked Marty Ellis if he would come up and see Laura---Marty Ellis and Laura had been keeping company previous, and when I received the message from Willie, I told Laura I was going down to see Martin and ask him to come up and stay with <sup>her</sup> him---that I had no intentions to come up and meet Willie.

Q Was not this note sent from Mott to you? A Yes, sir.

Q And what were you supposed to do with that note? A With the note?

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Q Yes? A When I had done with the note, I would have gone to Nash's immediately---I said I had not come there.

Q You did go to the restaurant? A I did go to the restaurant.

Q Why did you go to the restaurant? A I went to the telephone, to show Marty Ellis the note and ask him if he would go and stay with Laura, that I had no intentions to go with Willie Mott, and I was afraid Willie would come up there intoxicated and break up the house---

MR. COLLIGAN: I will ask that be stricken out.

THE COURT: Repeat it.

(The answer was repeated by the stenographer).

THE COURT: I will allow it to stand. That gives the reasons for going.

Exception.

BY MR. COLLIGAN:

Q Who did you see in the restaurant? A I did not look in the restaurant.

Q Didn't go in at all? A No, sir.

Q Did you make any trip to the restaurant that day? A That day?

Q Yes. A That evening.

Q At what time? A After the shooting.

Q Were you not there before the shooting? A With the note, that afternoon.

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Q That was all? A Yes, sir.

Q What time was that? A That was between 4:30 and 5:00 o'clock.

Q You returned with the note and showed it to Frieda, did you? A Yes, sir; I returned to the house.

Q Did you have a conversation with Frieda relative to the note? A I told her Martin would not come up.

Q And then what did you do with the note? A I kept the note in my hand and said I would return it to where it came, when I went up I told her I would go up, because I was told to go up.

Q And then you went out with Frieda and Frieda went to the restaurant at 10th Avenue and 33rd Street and you went to Nash's cafe on 43rd ---41st Street and 8th Avenue, am I correct? A Yes, sir.

Q And at what time was that? A That time, it was about twenty minutes of eight.

Q Now, getting beyond the shooting, you went out of the entrance at 41st Street, of the cafe, and what first did you do? A I came out the side door, at 41st Street and I was confronted by the three people, the three boys I have mentioned.

Q That is---? A Arthur Bieler, Hopple McArdle and Willie Mulhall.

Q It was on the side street? A On 41st Street, at the side entrance.

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Q Was there sufficient light there to identify anybody? A  
There is a boot black stand there, that is always lighted.

Q How about the south side of 43rd Street? A There is a  
cigar store there.

Q There is what? A On 8th Avenue, you mean.

Q East of 8th Avenue, on 41st Street, on the south side?

A What about it?

Q Is it light there? A Yes, sir.

Q Now, what did you do after leaving this saloon and after  
seeing these three men? A I walked out of the saloon and the  
three boys stood there. Willie Mulhall stepped up to me and  
asked me "Was he in there?" meaning Patsy Doyle. I crossed—I  
started to cross the street. I did not answer, I was crying,  
and he looked around.

Q You mean before or after the shooting? A Before the  
shooting.

Q All right? A I looked around and I seen three of them  
go in there, Willie Mulhall went in first, Arthur Bieler second,  
and Hopple last.

Q Speak louder. A Willie Mulhall went first, Arthur  
Bieler second, and Hopple went in last.

Q And you remained outside? A I did not remain. I turn-  
ed, and as I seen them go in, I ran across the street.

Q You ran across 8th Avenue? A No, sir; I ran across 41st  
Street.

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Q On arriving at the other side of 41st Street, what did you do? A On arriving at the opposite side of 41st Street

Q That is on the south side? A Yes, sir.

Q What did you do? A I bumped into some one there, not noticing who it was.

Q Not noticing who it was? A No, sir.

Q How many people were on that side of the street when you bumped into this particular person? A I could not say, I know I bumped into some one, I do not know whether black or white, I kept right on going.

Q Did you know the man you bumped into? A No, sir.

Q What did you do then? A I ran right across and into the Brighton Club Rooms.

Q The Brighton Club is located where? A It is on the south side, about two or three doors from the corner.

Q That is the corner of 41st Street? A And 8th Avenue, yes, sir.

Q How long did you remain there? A About three quarters of an hour.

Q About three quarters of an hour? A Yes, sir.

Q Who did you see there that you knew, if anybody, outside of those whom you have already mentioned? A In the club?

Q Yes? Or at the club? A Well, I know several boys up there, but I did not know their names. I ran right up in the club room, the boys were sitting, playing cards, and when I ran in,

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they jumped up.

Q When first did you see the defendant on that evening?

A In the restaurant, when I brought the note down.

Q When next did you see him? A After the shooting.

Q Where? A In the restaurant.

Q What conversation did you ever have with the defendant relative to the shooting? A That he was going to go up to the Times Square Club and clean the place out and he was going to get Patsy Doyle.

Q That was the first occasion? A Sir?

Q That was the first occasion that you had any conversation with the defendant, relative to any prospective shooting? A I spoke to him when I lived at 8th Avenue, he came up one morning from the bicycle races with Owen Lawlor, I spoke to him up there about Patsy Doyle---what I repeated.

Q Well, how long before the shooting was that? A About two and a half or three weeks.

Q Two and a half to three weeks? A Yes.

Q And who started the conversation? A He asked where the defendant---asked where Frieda was. I said she was living with a fellow named Patsy Doyle, because <sup>he</sup> I knew that <sup>Laura</sup> Lawlor and Frieda had always lived together, and he said, "How do you know Patsy Doyle?" I said I met him through Willie Vott.

Q So that, as a matter of fact, the defendant indicated to you on that occasion, two weeks and a half before the shooting,

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that he did not know Patsy Doyle? A No, sir; he did not say he did not know him.

Q What is your answer? A He did not say that he did not know him.

Q What did he say? A He asked me where was Frieda. I told him she was living with a fellow named Patsy Doyle.

Q And what did he say to you in response to that? A How did I know Patsy Doyle?

Q Is it not a fact that he asked you who Patsy Doyle was? A No, sir.

Q When next did you see him to speak to relative to Patsy Doyle? A At the plaza Hall, the following morning, after we came home.

Q When was that? A The following day, after we came home, from Plaza Hall, when he was up in my place, 39th Street and 3rd Avenue.

Q Madden was with you? A I was in Laura's company, and Willie Mulhall was with me.

Q And what did Madden say in your presence regarding Patsy Doyle? A He said to me, first he asked about Willie, and Willie hit me, and asked me whether I was going to let him get away with it, and as Patsy's friend, he supposed they were all about the same up there, bulldozing, and pimping.

Q He said they were all pimp? A Yes, sir.

Q Which was the truth, was it not? A No, sir.

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Patsy Doyle may have been, but Willie Mott was not.

Q When next did you have a conversation relative to Patsy Doyle? A I had met him---the defendant, several times, since that time, and every time I met him we have spoken about Patsy Doyle.

Q In the meanwhile you were going around with Willie Mott, were you not? A Willie Mott and I had quarreled, I had not seen Willie Mott for three weeks before he sent the note.

Q The defendant was making a confidant of you? A (No reply).

Q He confided in you? A What?

Q That he was going to harm Patsy Doyle? A He did not confide that to me at that time, no, sir. He said that Patsy Doyle was this and that, and he told me about different incidents that happened, that Patsy Doyle was a rat, and he said that he was going to get him, but he did not say when, where or how.

Q But he said he was going to get him? A The first time I ever met him he said that in regards to Patsy Doyle. Our first conversation he said that.

Q And that was a conversation that occurred about two and a half weeks before the shooting? A Yes, sir.

Q Now, when next did you have a conversation with him regarding Patsy Doyle? A I can't remember just positively what date or day or when or where it was, but I said I spoke to him about Patsy Doyle nearly every time I met him.

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Q Why did you continually refer to Patsy Doyle? A Why?

Q Yes? A Why, for no reason.

Q For no reason, but every time that you met the defendant, you referred to Patsy Doyle nevertheless, did not you? A We were speaking of Willie Mott at different times, and speaking of Frieda at different times, and brought his name into it, and at each and every time he stated the same thing, that sooner or later he was going to get him.

Q You feel as though you want to produce some motive in this case, don't you? A No, sir.

Q For some shooting done by some one? A No, sir---by some one.

Q Well, now, let us know what conversation occurred between you and the defendant on the evening after the shooting, or on the evening of the shooting, but after the shooting was done?

A The defendant asked me who I seen up there that night. I told him the three boys' names. He said "Are you sure you did not see five going in instead of three?" I said, "I am positive of the three that went in", naming them. He said, "Did you see me up there?" I said "No." He said, "Don't you remember bumping into some one when you crossed the street. You bumped right into me, did not you see me?" I said "No." I said, "I remember running into some one, but I don't know who they were, I was too excited."

Q And still, before the shooting, you had several conversa-

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tions with Madden, relative to Patsy Doyle, and nevertheless, when leaving that restaurant, walking across the street, on a street which you claim was well lighted, you did not know the defendant when you bumped into him? A Not walking from the restaurant, walking from the cafe.

Q Walking from the saloon, which is more proper? A Yes, sir.

Q You did not know? A No, sir; I did not, I passed right by. I did not notice anybody. I kept right on going.

Q You went right over to the Brighton Club and met some of your friends there? A I went over.

Q So the defendant confided in you that night that he stood on that corner while these men went into the cafe and shot Patsy Doyle? A He told me he was there, yes.

Q Now, who was present when that conversation took place? A Frieda Horner.

Q Who else? A I cannot think; I remember there were people there, but I just cannot remember.

Q Now, that that was very important in your mind, was it not? A Yes, sir.

Q The fact that a man who went up there with pals, was kind enough to tell you that he was in the thing, that in itself was quite important in your mind, was it not? A Yes, sir.

Q And still, in a matter as important as that, you cannot tell us who was present at the conversation? A Well, I remember

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Frieda being present, and who was there---

Q You say several other people? A Well, we were sitting at the place.

Q Where? A The cafe.

Q Where? A 33rd Street and 10th Avenue, southwest corner.

Q You have been detained in this case since the shooting, have you not? A No, sir; since December 4th I was taken as a witness and sent to the House of Detention on December 5th I was sent to Waverly House.

Q And you have had all that time to think over the details of this case, have you not? A I did not think about it.

Q Did not think about it at all? A Yes, I thought about it.

Q How often? A Very often.

Q Then, why did you say a moment ago that you did not think about it? A I did not 'consecrate' all my thoughts to it.

Q It is a pretty important matter in your mind, is it not?  
A Yes, sir.

Q And it meant a great deal to you? A No doubt.

Q To have a certain story on the witness stand, didn't it?  
A No, sir.

Q Now, after Wadlen told you that he was on the corner, what else, if anything did he tell you regarding yourself and his implication in the murder? A That if I stuck to saying that I

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did not see him on the corner, as good as saying that I did see the three boys, that he would get out of it.

Q And still you had not seen him on the corner? A No, sir; I did not say I saw him, I said I bumped into some one.

Q And you knew it was not him? A No, I did not know it was him.

Q You did not know it was him? A I was not sure.

Q You were not sure? A Because I did not recognize any-one I bumped into, some one, I didn't know even if it was a man or a woman.

Q And did he not tell you you would have known nothing about it, would you? A No, sir.

Q And still you want the jury to believe that he voluntarily told you all about the matter, and then said, "Shut up, don't tell anything?" A No, sir.

MR. EDWARDS: Objected to.

THE COURT: I sustain the objection as to form.

THE WITNESS: He did not tell me voluntarily.

THE COURT: The question is withdrawn.

BY MR. COLLIGAN:

Q He did not voluntarily tell you? A He told me---whether I was sure of not seeing five people going in instead of three, and I said "No, I seen three people going in," and he said, "How sure are you?" I said, "I am positive." He said, "Didn't you see me go in there?" And I said "No."

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Q Well, now, this conversation occurred in a cafe how shortly after the shooting? A About an hour and a half or two hours after the shooting.

Q When you left that cafe, where did you go? A Took Laura Buckley to Bellevue Hospital.

Q You were with Frieda? A Yes, sir.

Q Where did Wadden go? A I don't know where they went, but they told us they were going to a dance up at Moose Inn, a benefit dance, the defendant's name was on the committee.

Q Now, before they told you that they were going to dance at Moose Inn, had Wadden had any conversation with you relative to getting under cover? A Yes, sir.

Q Yes, and notwithstanding that, they said they were going to a public dance? A Yes, sir.

Q And did you see them at the dance? A No, sir.

Q When next did you see them? A In the restaurant, after I telephoned to them from Moose Inn.

Q What time was that? A I telephoned down there at about a quarter past one, telephoned to them. I got down there a little after two, I am not positive of the time.

Q Who was with you? A Frieda.

Q And who did you see in the restaurant when you arrived there? A Owen Wadden, Owen Lawlor, Mulhall and a few others.

Q Who were the others? A Well, I don't know their names, but I know they are visitors of that restaurant, they congregate

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there very often.

Q How long did you remain there? A I did not stay there very long. We stayed there about may be not half an hour.

Q Half an hour? A Well, I am not positive.

Q Did you have any conversation with the defendant? A Yes, sir.

Q About what? A About what happened previous.

Q In which part of the restaurant did you sit? (Showing witness exhibit) Now, that is the entrance, is it not, one of the entrances to the restaurant? (Indicating) A Yes, sir.

Q How many people were in that restaurant when you entered there about two o'clock in the morning? On Sunday morning? A I don't know how many was in there, I am not positive. The ones I mentioned was in there, and this table, at this last table, in the back part there were three or four boys sitting there, one of them was little Jimmie O'Connell.

Q How many other people to the best of your recollection were in that restaurant at the time you arrived there? A I cannot remember just how many was there.

Q Well, there were several people in the restaurant? A Yes, sir.

Q And who sat with you at the table? A I first talked to the defendant and then he turned in his seat and sat with Frieda at the first table and I sat at the second table, with Owen Lawlor.

Q You sat with the defendant, did you, at first? A At first.

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Q All alone? A Yes, sir.

Q And for how long a time did he talk with you? A Just a few minutes.

Q And you talked about the shooting? A Yes, sir.

Q What did he say and what did you say? A He told me to stop crying, that any one would get wise if they see me crying as if they had something to do with it, and let us stop reading the newspapers, we had the papers, and that would look very suspicious if a detective should pass and see us reading the papers, being as we were friends of Patsy's and friends of theirs.

Q Did he talk to Frieda at all, if you know? A Yes, sir.

Q And during this time were there several people in this restaurant? A The boys were sitting in the back, and I cannot say if there was very many people there. There was a few.

Q And then you went to an apartment? A The defendant telephoned and then we left there and went to the King's apartments.

Q You had been into the King's apartments before? A No, sir.

Q Are you positive of that? A positive, yes, sir.

Q Are you sure you were not in there one night with the King? A No, sir.

Q Now, as a matter of fact, none of you three girls had any money on that day, had you? A We were never without money.

Q How much money, to the best of your recollection, did you

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have that day? A I cannot remember; I know I had money.

Q Do you know whether or not Frieda had any? A I don't remember.

Q Do you know whether or not Laura had any? A No, sir; I don't know.

Q Who paid the room rent? A I did.

Q For how long a period had it been paid? A I only moved in there on that Tuesday.

Q For how long a period did you take the room? A Well, no time definite, just took it from week to week.

Q Did you pay for one week? A Yes, sir.

Q Did you discuss with Madden the case after you went to the King's apartments? A Yes, sir.

Q What did he say to you then and what did you say to him?

A He wanted to know what I was going to say when I came downtown, because he expected that I would be taken as a witness, on account of being up there. He said he was not sure about Frieda, but he knew that I would be, and if that was the case, what was I going to say when I got down.

Q This is the night in which you consumed so much liquor, was it not? A No, sir.

Q Now, didn't you tell the jury, within fifteen minutes, that you consumed all that? A Not then.

Q That was the night after the shooting? A The night after the shooting, but we didn't consume that liquor---

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Q That was the morning? A Until the morning.

Q Until the morning? A Until later in the afternoon. When we went in we did not drink at all. We drunk very little.

Q Now, did Madden tell you to keep out of the way? A I don't understand your question.

Q Did Madden tell you to keep under cover? A He wanted me to stay in the King's house.

Q Where? A In the King's house.

Q And nevertheless, before you went to bed that night, you went to a dance, at which you expected to see Madden, is not that so?

MR. EDWARDS: May we have counsel specify what night he means?

MR. COLLIGAN: The night of the shooting.

A The night of the shooting.

THE COURT: She has already said she went to the Moose Inn.

MR. EDWARDS: Before they went to the King's flat.

BY MR. COLLIGAN:

Q Now, he did not tell you to keep under cover then, did he? A He told me, yes.

Q And still you went to the dance? A Still we went to meet him, yes, and we were going to spend the rest of the time with them, after we met them.

Q And still they went to a public dance? A Yes, sir.

Q He did not try to keep you under cover the next day? A

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He asked me and I would not stand for it.

Q You would not stand for it? A No, sir; I would not.

Q You were not friendly enough with him to be his confidant, were you? A Yes, sir. I was never bulldozed in my life.

Q Never bulldozed in your life? A Never.

Q That was the only thing you have missed in your life? A No, sir.

MR. EDWARDS: I object to that.

Q You went to a public dance in Tammany Hall on the next night, didn't you? A Yes, sir.

Q And saw Madden? A Yes, sir.

Q And notwithstanding that he told you to keep under cover?

A We were not in his company.

Q Do you know a police officer by the name of Newman? A Yes, No, sir; I don't. I know some, but I don't know their names.

Q Did you ride on the car with Madden that night going to Tamany Hall or from Tammany Hall, rather? A From Tammany Hall.

Q From Tammany Hall? A From Tammany Hall.

Q Yes, you did. Don't you recall a police officer being on the car and Madden speaking to him? A No, sir.

Q Don't you recollect Officer Newman being on the car? A No, sir.

Q Didn't you see this officer give Marty Ellis a large package? Now, just refresh your recollection? A No, sir.

Q Didn't you ask Madden whom the man was with whom he was

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speaking, and didn't he tell you it was Officer Newman? A Not to my knowledge.

Q Now, be fair about this. Just tell the jury. That is all I ask. A I am fair about it.

Q What? A I certainly am fair about it.

Q Now, try to recollect---your recollection of that? A I cannot remember that I did.

Q But nevertheless neither of you kept under cover, did you? A No, sir; I refused to be kept under cover.

Q You were at his beck and call, is that it? A No, sir; far from it.

Q Far from it? A Yes, sir.

Q And still you were with him all the time? A No, sir; not all the time, I expected---

Q You mentioned one Romanello? A Yes, sir.

Q Did you ever have any conversation with Madden with reference to Romanello? A Yes, sir.

Q What was that conversation? A The conversation was that Patsy Doyle and Romanello had some fight or something at Nash's, in which Patsy Doyle cut him up.

Q That is Doyle cut Romanello? A Yes, sir.

Q Now, who told you this? A The defendant.

Q When? A I can't remember the day and the date, just when it was.

Q How long before the shooting? A It was the first part

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of November when I was up in 688 Eighth Avenue. He came up from the Bicycle Races, and he started talking---

Q What? A That was when the conversation was brought up about Frieda.

Q What did he come up from? A From the Bicycle races.

Q And what led to the conversation in reference to Romanello?

A About Frieda, where was Frieda? I said she was with Patsy Doyle and then the conversation started.

BY THE COURT:

Q That was after Doyle had gotten out of the Tomb? A Yes, your honor.

BY MR. COLLIGAN:

Q Now, is it not a fact that you asked Madden to come to your flat on that occasion, you would not go up, but sent Marty Ellis? Please refresh your recollection on that? A I remember calling up the restaurant and asked---I cannot say who I spoke to---but it was either Lawlor or Madden, to come up there to see Laura, and I, up there, and they said they could not come up that night, they were going to the bicycle races, but they would come up the next morning, and it was Marty Ellis that I expected up with Owen Lawlor, but the defendant came up with Owen Lawlor, and I cannot remember what excuse he gave for Marty Ellis.

Q And that is the best recollection you have of it? A Yes, sir.

Q What did he say concerning Doyle and Romanello? A Why,

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he said that they had the fight and that <sup>Mary</sup>Merrie O'Donnell was down from him there, O'Donnell, and he gave O'Donnell the message to tell Patsy Doyle about "T", not to rap on "T", that "T" should not rap on Patsy."

Q Now, let me understand you, who told you this? A Madden.

Q That Romanello had stabbed Doyle? A No, sir.

THE COURT: The other way.

BY MR. COLLIGAN:

Q Or Doyle had stabbed Romanello, that he sent word through <sup>Mary</sup>Merrie O'Donnell to keep Romanello from prosecuting or assisting in the prosecution of Doyle, that he, Madden, would take care of Doyle himself, am I correct? A No, sir.

Q State it yourself? A <sup>Mary</sup>Merrie O'Donnell was in their company.

Q In whose company? A In the company of the boys, the defendant and his crowd down Tenth Avenue.

Q When? A I don't know when, but this is what he told me. A All right.

Q And when he told <sup>Mary</sup>Merrie O'Donnell that it was through him Patsy got out, that he told "T" not to rap Patsy, to let him get out, and they would settle with him for it.

Q That is, Madden would settle? A Yes, sir.

Q Was <sup>Mary</sup>Merrie O'Donnell given any message to give to Romanello? A I don't know nothing about that.

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Q Was any message given to Romanello at any time? A I don't know nothing about it.

Q Did he tell you that Romanello had been advised to drop it? A He told me that he told---that it was through him it was done.

Q Yes. A That he told "T" not to rat Patsy.

Q He told "T", that is Romanello? A Yes, sir.

Q Not to rat Patsy Doyle? A Yes, sir.

Q You are positive of that? A Yes, sir.

Q That Madden told "T", Romanello, not to rat Patsy at all?

A I ain't <sup>sure</sup>. He told "T" not to rat him.

Q What? A He said it was through him that Patsy got out.

Q What else did he say? A That "T" was told not to rat him. He did not mention any names as to who told him, and he said it was through him that Patsy Doyle got out, and he was--- it was through <sup>many</sup> O'Donnell that Patsy was looking for him, because he was looking for him.

Q You were in the House of Detention with <sup>many</sup> Morrie O'Donnell were you not? A Yeah sir.

Q For how long a period? A From Friday evening until Monday morning.

Q You had some conversation with <sup>many</sup> Morrie O'Donnell, had not you, with reference to testifying in this case? A Yes, sir.

Q Can you recollect what this conversation was? A Yes, sir.

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Q Will you state it? A That she asked me about the case and that she said she felt sure that Willie and I knew something about it, because we were friends of patsy's and were up there and she said she had seen Patsy that week, but had not heard him say anything about having any arguments or quarrels with anybody, and that she felt that we knew something about it, and I said no, I did not know anything about it, because up until that time I had not made a statement.

Q Now, as a matter of fact you asked Morrie O'Donnell to testify, and what did you say? A I told Morrie O'Donnell that she knew who done it, that's what I told her.

Q And you said you did not know? A I said it, because I was standing by the boys at the time.

Q You were doing what? A I was standing by the boys at that time.

Q At that time you were standing by the boys? A I denied knowing anything about it, for two days.

Q Did you ever have any conversation with Morrie O'Donnell relative to the manner in which she would testify, or should testify? A Why, all that was said was that I told Morrie O'Donnell that if she told what she knew that that would be enough, that she knew who done it as well as I did, and she said, "Well, do you know?" And I said, "That is for you to know," and I was trying to get Morrie O'Donnell to talk first and then I would talk.

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Q Is it not a fact that you advised, or endeavored to induce Morrie O'Donnell to testify against this defendant? A No, sir.

Q Are you positive? A Yes, sir; the defendant's name was not mentioned at that time. I am positive I did not induce <sup>any</sup> Morrie O'Donnell to do anything.

MR. COLLIGAN: That is all.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q If you recollect it, has it come to your mind in the course of cross examination what the defendant said was the reason why he was in Nash's twice that afternoon, looking for a man with two gold teeth? A We did state, but I cannot remember what he said?

Q Now, this time, when you went back to the restaurant, after Doyle was killed, and after you had been up to the Moose Head Inn, was there anybody in the restaurant except these boys whom you had seen in company with this defendant? A No, sir; there was not any one there that I remember seeing that had <sup>not</sup> been in there before, just the boys from around that neighborhood.

Q And all of them were persons whom you knew this defendant knew? A Yes, sir.

Q That is, there were no strangers from the outside in there at that time? A No, sir.

Q Now, this time that you talked to <sup>any</sup> Morrie O'Donnell in the house of detention, had you at that time made any statement

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at all in this case? A Yes, sir.

Q I mean had you told that you knew anything? A No, sir; I had not.

Q You denied knowing anything up to that time, did not you, about who did the shooting, and so on? A It was of a Sunday that I made my first statement; it was on a Saturday night that I spoke to Morrie O'Donnell in the House of Detention.

Q The Saturday before you made your first statement? A Yes, sir.

Q And for a considerable period of time you refused to tell anything, didn't you? A Yes, sir.

Q And after that you told what you knew, little by little? A Yes, sir.

Q Till you told all that you knew? A Yes, sir.

Q Now, have you told us all that you know now; is there anything else you can add to what you have told us? A I cannot remember, Mr. Edwards.

Q You did not mean to say that you had never slept with but one or two men, did you? A You have slept with a good many, have you not? A Yes, sir.

Q When I asked you on the direct whether you had ever been a prostitute, and you said no, you mean that you, as I understood you, that you had never been a prostitute for hire? A Yes, sir.

Q Now, this conversation that you had had with the defendant in Dewaney's cafe, where is Dewaney's cafe? A 34th Street and

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8th Avenue.

Q And when about was that conversation, about how long before Patsy Doyle was shot? A The night before.

Q The night before? A That evening, yea, sir.

Q Now, can you tell us just what brought up Patsy Doyle's name, and what the conversation was with the defendant? A He said "This is the place that Patsy Doyle comes looking for me. I wish he would come in here now, I would tell him what I would do to him."

Q Was that all? A "This is the place that Morrie O'Donnell says he comes looking for me."

Q Now, after that conversation, how long were you in Dewaney's that evening? A Till about two o'clock.

Q And who was there with you? A Willie Mulhall; Owen Lawlor, the defendant, Frieda and I.

Q Who took you home that evening? A We came home in a taxicab, from there, run by a boy, a fellow called Kid Williams.

Q Who got the taxicab? A He came in there in the evening, he came in there before we left, about half an hour, with some story asking the boys would they help him out.

Q Never mind his conversation; I do not think it is material, but you went home, and who went home with you in the taxicab? A Owen Lawlor, Owen Vaden, Willie Mulhall, Frieda and I.

Q And did they come up to your room? A No, sir; they left outside the door.

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Q And said good night to you there? A Yes, sir.

Q And they drove away and you went to your room? A Yes, sir.

Q What time was that on Saturday morning? A That was after two, I cannot say, it was about two thirty or so.

Q And didn't any of them come up to your room that night?

A No, sir.

Q Was anything said why they didn't? A They said they were going out to get money and did not have time.

MR. EDWARDS: That is all.

THE COURT: We will not call another witness tonight.

(The Court admonished the jury in accordance with Section 415 of the Code of Criminal Procedure and took an adjournment until Thursday, May 27th, 1915 at 10:30 o'clock A.M.).

---oooOooo---

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New York, May 27th, 1915,

Trial resumed.

A R T H U R S T E I N, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 238 West 30th street).

DIRECT EXAMINATION BY MR. EDWARDS:

Q What is your business? A Florist.

Q And your place of business is where? A Not at present -- just taking orders.

Q You just take orders? A Yes.

Q What sort of orders do you take? A Designs -- cut flowers --

Q To whom do you deliver the cut flowers? A Different parties.

Q Does your business in cut flowers require you to be up and about at night a good deal? A Yes.

Q So usually you are working pretty much all night? A Yes.

Q Do you recollect the evening of Saturday, November 28th, 1914? A Yes.

Q Do you know Dodo Fitzsimmons? A Yes.

Q Do you know this defendant? A I have seen him, yes.

Q Did you see Dodo Fitzsimmons on the Saturday night that Patsy Doyle was shot? A I don't remember the night he was shot. I don't remember that.

Q Did you on a Saturday night in November, 1914, see Dodo

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Fitzsimmons, and go with him to the restaurant at the corner of 33rd street and 10th avenue? A I went with him over to the restaurant in a taxi.

Q Where did you first see Dodo that night? A Around Child's restaurant, between 33rd and 34th street and 7th avenue.

Q Were you in there that evening? A Yes.

Q Did he come in and find you? A Yes.

Q Did he say anything to you when he came in, yes or no?

A Just asked me --

Q Never mind what he said, did he say something to you, did he speak to you when he came in there? A Yes, sir, he certainly spoke to me.

Q After he spoke to you, did you and he go anywhere?

A Over to 33rd street and 10th avenue.

Q How did you get there? A A machine, taxi.

Q Where did you get the taxi? A Corner -- on 7th avenue and 33d street I think it was.

Q You went to this restaurant -- where was the restaurant?

A 33rd street and 10th avenue.

Q When you got there, do you recollect whether you went in the restaurant or not? A I don't remember that.

Q Who did you see over there at the restaurant? A They came into the taxi.

Q Who did? A These two girls and the two Ownies.

Q What two Ownies? A They had their caps on, but I figured it was Owney Madden and Owney Lawlor.

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Q Did Dodo Fitzsimmons come into the taxi also? A Yes, sir.

Q Where did you six persons go in that taxicab? A Over to my flat.

Q Where is that? A 238 West 30.

Q What did you do when you got to your flat? A Opened the door and went away.

Q You opened the door? A Yes.

Q Who went in? A The four parties.

Q Who are the four? A Two girls and two fellows.

Q Which two fellows? A The two Ownies.

Q What became of Dodo? A Dodo went away.

Q Did he go away with you? A No.

Q When did you next go back to your flat? A Probably 8 or 9 o'clock in the morning.

Q The next morning? A Yes.

Q Whom did you find there then? A They were there then.

Q All four of them? A Yes.

Q Any one else? A I did not -- no, sir, nobody else.

Q You saw those four there? A Yes.

Q Did you go back again that day? A No.

Q Did you go back again the next morning? A The next morning.

Q Who did you find there then, that would be Monday morning?

A Monday morning the same parties.

Q The same parties were still there? A Yes.

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## CROSS-EXAMINATION BY MR. COLLIGAN:

Q You did not receive a communication of any kind from Owen Madden or Owen Lawlor, did you? A Not to my memory.

Q With respect to coming to the restaurant at 33d street and 10th avenue? A No, sir.

Q All you know about it is that Fitzsimmons asked you to go to that restaurant? A Yes.

Q You had no conversation with Madden as to why he wanted to go to the flat? A No, sir, just wanted to stop there for the night.

Q You had no conversation with Lawlor as to why they wanted to go to the flat? A No, not a word.

Q You don't know the reason they went there? A No.

BY THE COURT:

Q I don't understand -- this was your flat? A Yes.

Q How many bedrooms in it? A Two.

Q How long were those people in possession of your flat?

A Two days.

Q Where were you in the meantime? A I went away.

Q What did you do that for -- why did you leave them in possession of your flat and turn it over to two men and two girls?

A I couldn't tell you.

Q You must have some reason, I want the truth out of you -- why did you do that? A That is positively the truth, no wrong intentions.

Q I do not say there was any wrong intention -- I simply

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want to know why -- a man does not leave his own flat and turn it over to other people without knowing why he does it and who asked him? A I have done this thing on different occasions.

Q Why did you do it on this occasion? A What should I do there?

Q Did you know these girls? A No.

Q Why did you turn your flat over to two strange girls and two men for two or three days, and leave it yourself? A I did not have no fear of anything.

Q Why did you do it, who asked you to do it? A Nobody asked me to do it.

Q Somebody must have asked you? A No, nobody.

Q Did not anybody ask you? A No, not a soul on earth.

Q How did they happen to come there? A Through Dodo Fitzsimmons.

Q Who asked them to come there? A Dodo Fitzsimmons asked me as a favor if I would let a couple of friends come over there and stop there a couple of days, and I said yes.

Q Did not give you any reason? A No reason whatever.

Q You say you frequently left your flat while other people stopped there? A At times I have. There is a man in the asylum, he stopped there and I left him there alone.

Q You never asked these parties why they wanted to stop there at all? A No.

BY MR. EDWARDS:

Q You have a feeling, haven't you, that if you had known

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that Madden and his friend had killed Patsy Doyle, that you would be guilty of a breach of the law, if you let them have your flat?

MR. COLLIGAN: I object. There is no evidence that he knew they had killed Patsy Doyle.

Objection sustained.

Q You have a feeling, haven't you, that if you had known that these four persons wanted to come into your flat because of their desire to keep away from the police because of the Doyle shooting, it would make you guilty of a breach of the law?

Objected to.

THE COURT: I sustain the objection on the ground it tends to impeach the witness.

P A T R I C K F L O O D, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are an officer of the Municipal Police Force? A I am.

Q Attached to the Second Branch Detective Bureau? A Yes, sir.

Q Did you place this defendant, Owen Madden, under arrest?

A I did.

Q When? A On December 1st, on the evening of November 30th we took him to the station house, but after being interrogated by Assistant District Attorney, Mr. Deuell, he placed them under arrest about 12:30 A.M. December 1st.

Q Where did you find the defendant? A In the American Lunch Room, northwest corner of 33rd street and 10th avenue.

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Q Did you place any others under arrest at the same time?

A I did -- about 10:30 P.M. on November 30th I placed Marty Ellis under arrest, and at 34th street and 10th avenue at that time I saw Owney Madden and several other young men were in a restaurant, and I took Ellis to the station house and telephoned to the Second Branch for assistance, and Detectives Webber and Blanch came to my assistance, and we went down afterwards and placed Madden and William Tammany, Owen Lawler, Jack Harris, James Fitzsimmons and James O'Connell who were all present in the restaurant -- we placed them all under arrest.

Q Is that James Fitzsimmons the one called Dodo Fitzsimmons?

A Yes, sir, known as Dodo.

Q They were all in the restaurant at that time? A Yes, sir, also Arthur Bieler alias James Ward.

Q He was there also? A Yes.

Q Anybody else you recollect? A No, I don't recall any others.

Q This was on what evening, the evening of what day?

A November 30th.

Q That would be Monday night? A Monday night.

Q About what time? A We went to the restaurant on the second occasion about 11 P.M.

CROSS-EXAMINATION BY MR. COLLICAN:

Q Practically all of these witnesses remained in the House of Detention for quite a period? A They did.

Q And on a writ of habeas corpus they were all allowed to go?

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A I believe so.

BY MR. EDWARDS:

Q Not Bieler? A Oh, not Bieler or the defendant Madden.

F R E E D A H O R N E R, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 38 West 10th Street, Waverly House).

DIRECT EXAMINATION BY MR. EDWARDS:

Q How old are you? A Nineteen.

Q When is your birthday? A September 22nd.

Q How long since you have been living away from home?

A Over a year.

Q You knew Patsy Doyle? A Yes, sir.

Q You knew Margie Everdeene? A Yes, sir.

Q How long have you known Patsy Doyle? A I knew him the 1st of November, the first time I ever saw him was the 1st of November.

Q The 1st of November last, 1914? A Yes.

Q How long have you known Margie Everdeene? A About three years.

Q Do you know William Mott? A Yes.

Q When did you first meet him? A When I first met Patsy Doyle.

Q In November also? A Yes.

Q When you first left home, where did you go to live?

A 39th street, east side.

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Q With whom? A With Laura Buckley.

Q That is the Laura who was living with you and Margie at the time Patsy Doyle was killed? A Yes, sir.

Q How long did you continue to live there? A Until I met Patsy Doyle.

Q Then whom did you go to live with? A With Patsy Doyle.

Q How long did you live with him? A Three weeks.

Q And after you left home, how did you earn your living?

A Prostituting.

Q When you went to live with Patsy Doyle, where did you live with him? A In 43rd street.

Q Do you remember the number? A No, I do not.

Q Do you remember between what avenues it was? A Between 7th and 8th.

Q When was it that you left Doyle or Moore, whichever you called him? A The Wednesday before Thanksgiving.

Q That would be the Wednesday before he was shot? A Yes.

Q And when you left him, where did you go to live? A With Margie Everdeene and Laura Buckley.

Q Do you know this defendant, Owen Madden? A Yes.

Q How long have you known him? A I knew him about two years from going around dancing.

Q After you left Patsy Doyle, where did you first see him?

A Thanksgiving afternoon.

Q Where? A Tammany Hall.

Q At Tammany Hall? A Yes.

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Q That is where? A 14th street right near 3rd avenue.

Q What was going on that day there? A All I knew, I heard Madden's bunch were running off a racket.

MR. COLLIGAN: I object to that and move to strike it out.

THE COURT: Motion granted.

BY MR. EDWARDS:

Q What was it, a dance? A A dance.

Q Did you see the defendant there? A Yes.

Q Did you see any one else there that you knew? A Yes, sir.

Q Who? A I saw Owney Lawler and William Mulhall and Hoppe McArdle and Arthur Bieler.

Q Who was managing that dance that night? A Willie Mulhall was in the box where the tickets are served.

Q Did the defendant have anything to do with the management of that dance as far as you saw? A No, not that I know of.

Q Did you dance with the defendant that evening? A No.

Q Did you speak to him at all that evening? A Yes.

Q Where and when? A It was on the stairs and he asked me if I had met Patsy Doyle, and I said yes.

Q And did he say anything more than that? A That was all that afternoon.

Q Did you have any more talk with him that evening? A That evening I was out with him.

Q Who else was in the party? A Owney Lawler and Hoppe McArdle and Arthur Bieler, and Laura and a few other girls.

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Q Was Margie there that evening? A No, Margie was not there.

Q Where did you spend that night? A In 43rd street.

Q With whom? A With Laura Buckley, Margie Everdene and Owney and I.

Q Owney Madden? A Yes.

Q All in the same room? A Yes.

Q That would be Thursday night -- now on Friday did you see the defendant? A Yes.

Q Where? A Friday evening at the restaurant.

Q What restaurant? A The American Lunch, 33rd street and 10th avenue.

Q Who else did you see there that evening? A Marty Ellis and Owney Lawler and William Mulhall.

Q Any one else? A That was all.

Q Were these men whose names you have mentioned, in the company of the defendant that evening? A Yes.

Q Now, who was with you, any other girls on Friday? A Laura went down with me and in about half an hour after Margie joined us.

Q Was there any conversation there that evening, that you recollect, between you and the defendant? A Not in the restaurant, but in DeVanny's.

Q What time did you go to DeVanny's? A About 12 o'clock.

Q That would be midnight you mean? A Yes.

Q And who went to DeVanny's? A Owney Madden, Owney Lawler and William Mulhall and Laura and I and Margie.

Q Did you have any conversation there with the defendant or

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hear any conversation with the defendant? A Yes, sir.

Q Tell us what that was? A Owney asked me --

MR. COLLIGAN: I want to find out if the defendant participated in this conversation.

MR. EDWARDS: I asked specifically.

THE COURT: I understand the question calls for a conversation with the defendant.

BY MR. EDWARDS:

Q Go on? A Owney asked me if I was keeping Patsy Doyle or if Patsy Doyle was keeping me. I said Patsy Doyle was keeping me.

Q Anything else said there that evening? A No, sir, not that evening.

Q Was there anything said there about -- anything more that you overheard -- either between you and the defendant or between Margie and the defendant about Patsy Doyle? A May O'Donnell's name was mentioned.

Q Do you recollect how that came up, what was said about it? A Owney Madden asked Margie if Patsy ever told her anything about him, what he said.

Q What did Margie say? A Margie said Yes, she knew something.

Q Was it mentioned what it was? A Yes, sir.

Q What was it? A That Owney Madden told May O'Donnell to tell Patsy that they were leaving Patsy get out of the trouble with "T", so that Owney Madden ~~could~~ could get Patsy Doyle and hand it to him.

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BY THE COURT:

Q Who said that? A Margie brought that back to Owney, saying --

Q She said that to the defendant or the defendant said it to her? A She said it to the defendant, that was what she heard.

Q What did the defendant say to that? A Did not say anything.

MR. COLLIGAN: I move to strike it out.

THE COURT: I do not see how it is permissible, unless calling forth some reply from the defendant.

MR. EDWARDS: That was a question asked by the defendant and then Margery Everdeene's answer to it.

MR. COLLIGAN: I don't understand it that way.

MR. EDWARDS: That is the way the record will show it.

(The stenographer reads the testimony of the witness as follows: "Q Was there anything said there about --" anything more that you overheard -- either between you and the defendant or between Margery and the defendant about Patsy Doyle? A May O'Donnell's name was mentioned. Q Do you recollect how that came up, what was said about it? A Owen Madden asked Margery if Patsy ever told her Margery, anything about him, what he said. Q What did Margery say? A Margery said yes, she knew something. Q Was it mentioned, what it was? A Yes. Q What was it? A That Owen Madden told May O'Donnell to tell Patsy that they were leaving Patsy get out of the trouble with "T" so that Owney Madden could get Patsy

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Doyle and hand it to him. \*)

THE COURT: It does not appear it was in answer to a question.

BY THE COURT:

Q How did Margie come to make that remark? A Owney Madden asked Margery if May O'Donnell ever carried back a message to Patsy that he had given her to carry back to him.

Q And she said yes, and that that was the message? A Yes.

THE COURT: I will allow it to stand. Exception.

BY MR. EDWARDS:

Q How late did you remain in Devanny, s that evening? A Until about 2 o'clock.

Q Where did you go then? A Into a taxi, and back to 43rd street.

Q Who went back in the taxi to 43rd street? A Owney Madden Owney Lawlor, William Mulhall, Margery, Laura and myself.

Q Did the boys stay at your home that night? A No, us girls went out of the taxi and the boys said they were going to --

Q That was the last you saw of them that evening? A Yes, sir.

Q That brings us down to Saturday, the 28th of November? A Yes

Q On that day did you see the boys in the morning or any of them? A No, sir.

Q Were you and Margery and Laura all the time in your room that afternoon, A Yes.

Q Do you recollect anything that happened that afternoon?

A Yes.

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Q What was it? A Margie received a note from Willie Mott.

Q Did she show you that note? A Yes.

Q And did you discuss it together? A Yes.

Q And after that did Margie go out? A Yes.

Q How long after that -- can you give us an idea about what time that was? A Just at dusk, about four or half past four.

Q How long after Margie went out did you see her again?

A About three-quarters of an hour.

Q After that how long was it before you and Margie left your room to go out? A We did not leave our room until about 7:30 to go out.

Q Then where did you and Margie go? A Walked down 9th avenue -- Margie left me at 40th street and 9th avenue and I walked down to the restaurant.

Q That is the American Restaurant? A At 33rd street and 10th avenue.

Q Did Margie tell you when she left you, or before she left you, where she was going? A Yes.

Q Did you tell her where you were going? A Yes.

Q Can you give us an idea of about what time you reached the American lunch room? A About five minutes to eight.

Q When you got there who was the first person you saw?

A Marty Ellis.

Q Where was he? A Outside of the American lunch.

Q On the sidewalk? A On the sidewalk.

Q Did you have any talk with him? A Yes.

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Q Then where did you go? A Into the restaurant.

Q Who did you see there? A Jimmy O'Connor and Arthur Bieler, Hoppe McArdle and Tammany's brother, and William Mulhall.

Q You speak of Tammany's brother, were there two Tammany's?

A There was, and one was sent away and this other one I don't know his name -- they call him Tammany's brother.

Q You don't know his first name? A No.

Q Did you have a talk with any of them? A Yes.

Q After that, where did you go? A I went to the barber shop

Q Where was the barber shop? A Two or three doors up from the restaurant.

Q The same side of the avenue? A Yes.

Q To the north or south? A To the north.

Q The same block? A Yes.

Q Had you ever been there before? A No.

Q What did you do when you got there? A I looked in to see if I could see Owney Madden.

Q Did you see him there? A No.

Q Did you see the whole barber shop? A Yes.

Q Did you see all the chairs? A Yes.

Q And the chairs where customers waiting had? A Yes.

Q He was not there? A He was not there.

Q Then where did you go? A Came back to the restaurant.

Q Did anything happen when you got back to the restaurant, did you go inside or stay outside? A I stood outside again with Marty Ellis.

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Q What happened, if anything? A I was there about two minutes when the telephone rang. Marty Ellis went in to answer it and told me I was wanted on the wire. When I picked up the receiver Margery was at the wire and she told me Patsy would like to speak to me.

Q She spoke to you? A Yes.

Q And after she spoke to you, what happened? A Patsy was put on the wire.

Q Patsy Doyle? A Yes.

Q Did you recognize his voice? A Yes.

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

Q Who else was nearby when you were having this talk?

A William Mulhall, Arthur Bieler and Hoppe McArdle.

Q Which was the nearer to you of those three? A Arthur Bieler.

Q How long did your talk with Doyle last about? A About three minutes.

Q And then what did you do? A I hung up the receiver.

Q Did you say anything to either Bieler or McArdle or Mulhall as you hung it up? A No, I did not say anything to them but they heard what I said over the wire.

Q What did you say as you hung it up? A "Who do you mean by the bunch of bums."

Q What happened? A Arthur Bieler asked me the telephone number.

Q Did you give it to him? A I told him I would get the

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party on the wire.

Q Did you do it? A Yes.

Q Who did you get on the wire? A Patsy Doyle.

Q What number did you call to get him -- were you familiar at that time with the number of Nash's saloon? A Yes.

Q Had you called Doyle up there frequently during the three weeks you lived with him? A Yes.

Q Was that the number you called? A Yes.

Q Did you get Doyle on the phone? A Yes.

Q Then what happened? A Arthur Bieler and Doyle had a conversation over the wire.

MR. COLLIGAN: I object to that statement.

BY MR. EDWARDS:

Q When you heard Doyle's voice on the phone, what did you do? A Handed the receiver to Arthur Bieler.

Q He spoke over the phone? A Yes.

Q Can you give us an idea about what time this was?

A About five minutes after eight or ten minutes.

Q Did you hear what Bieler said? A Yes.

Q Tell us what Bieler said? A Bieler mentioned his name over the wire, he said he was Arthur Bieler.

MR. COLLIGAN: I object to this conversation.

THE COURT: Upon what theory is it offered?

MR. EDWARDS: I have proved Doyle had a conversation over the telephone from the restaurant, Margie Everdene calling the restaurant and getting Freeda's voice, and then

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putting Doyle on the telephone, and the telephone was hung up and as they walked away from it, it rung again, and Doyle returned to the phone, and that was between 8 o'clock and ten minutes after eight. Now, it seems to me at this point I have sufficiently shown the connection between Bieler and this defendant Madden, to make this conversation between Doyle and Bieler, which resulted, as I have already shown, in Doyle's immediately going to get his gun, and in the arrival at the saloon, and killing him, of Mulhall, Bieler and McArdle, with Madden outside, to make this conversation between ~~with~~ one of the two factors, Bieler, and the deceased, competent.

MR. COLLIGAN: There is no evidence to show that Madden had any knowledge of this telephone conversation, and I think the law is perfectly settled on that point.

THE COURT: Suppose the joint action began from that time?

MR. EDWARDS: We have shown threats by the defendant ~~and~~ antecedent to this time, dating back as early as November 1st

THE COURT: That is so, but I mean, suppose the joint action to procure the killing on this night, started at that time. Then I do not think the conversation would be admissible.

MR. EDWARDS: We have already shown the conversation between the Everdene girl and this defendant, showing he had just such an affair as this in his mind then, in the afternoon.

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THE COURT: What conversation?

MR. EDWARDS: Between Margery Everdeene and this defendant, with respect to Willie Mott's note, down there outside of this same restaurant, that very afternoon, within two or three hours of the time this conversation took place, at which time Mulhall was there also present, who was present during this conversation of Bieler's.

THE COURT: There was nothing in that conversation as I recall it which directly led to this girl calling up on the phone.

MR. EDWARDS: There was this, in the conversation, that the defendant said to Margie Everdeene "Cannot you get Mott and Doyle up to your room, and if you have any trouble telephone down to us and we will come up and do them up." There was nothing said about the saloon, but, with him going away and saying "Do anything Ellis tells you to" and her conversation with Marty Ellis along the same lines afterwards.

THE COURT: I think it would be safer for the present to exclude it. It may become competent later.

BY MR. EDWARDS:

Q How long did that talk between Bieler and Doyle last?

A About two minutes.

Q Then what did Bieler do? A Bieler left the restaurant -- no, Bieler called Jimmy O'Connor over to him.

Q Did he say anything as he hung up the receiver? A He said it was too much for him.

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Q What did he do then? A Called Jimmy O'Connor over towards him.

Q Where was Jimmy O'Connor at that time? A At a far table.

Q I want to show you People's Exhibit 2, diagram of the restaurant, you are facing it from the 10th avenue front -- this is 33rd street here -- so, this is on the northwest corner where the restaurant is, here are the two entrances, here are the four rows of tables and here the serving counter -- can you show us where the telephone was that you called on, whereabouts in the restaurant? A There (indicating).

Q You point now to the end of the black line on the south side wall right at the front window? A Yes, sir.

Q And while you were talking on that telephone, where was it that Bieler was standing? A Bieler was standing right about there.

Q Indicating a point at the east side of the first table from the door, on the south line of tables, and where was McArdle at that time? A Standing right near Arthur Bieler.

Q Where was Mulhall? A Right by him too.

Q All three of them were right together there? A Yes.

THE COURT: Nobody knows where the place is she pointed to.

MR. EDWARDS: I held it on a slant and I thought the jurors could see it. The place she pointed out is this point here, Bieler was standing right here, she said, and McArdle and Mulhall right beside him (indicating).

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BY MR. EDWARDS:

Q Did you hear what he said to O'Connor, yes or no? A No.

Q What did O'Connor do after that? A Left the restaurant.

Q And what did Bieler do while he was gone? A Waited for him

Q Did he come back? A Yes.

Q In about how long? A Two minutes.

Q What did he do? A When he came back he handed something to Arthur Bieler.

Q Did you see what it was? A No.

Q What happened? A Arthur Bieler, William Mulhall and Hoppe McArdle left the restaurant.

Q Did they go out together? A Yes.

Q Now, up to that time had you seen Owney Madden, this defendant? A No.

Q What did you do? A I sat down to the table.

Q And did you remain there? A Yes.

Q How long afterwards did you see this defendant Madden?

A In about twenty minutes or half an hour afterwards.

Q Where did you see him then? A In the restaurant -- he rushed in the door.

Q Did you notice anything about him as he came in? A Yes.

Q What? A He seemed as though he was out of breath.

MR. COLLIGAN: I ask to strike that out.

THE COURT: Yes, do not say what he seemed -- tell us what you saw about him.

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BY MR. EDWARDS:

Q Just what you observed? A He was out of breath.

Q What gave you that impression? A Because he was breathing very heavily.

Q What did he do when he came in? A He sat down right by me.

Q Did he say anything to you or did you say anything to him?

A Yes.

Q Who spoke first? A I did.

Q What did you say? A "I received a telephone call."

Q What did he say? A "What did he say." -- I said "Patsy?" and he said "Yes."

Q What did you say to him then? A I told him about the telephone message.

BY THE COURT:

Q What did you tell him, give us the words you used about the telephone message? A I told him Patsy called me up and called ~~xxxx~~ me a louse and called me a lot of pet names over the phone, and I told him Arthur Bieler also talked to Patsy over the phone, and that Bieler and Mulhall and McArdle left the restaurant.

BY MR. EDWARDS:

Q How long after that was it that you saw any of these other three, Mulhall, Bieler and McArdle? A About five minutes after that, after Madden came in.

BY THE COURT:

Q Five minutes after what? A After Madden came in.

BY MR. EDWARDS:

Q Which one of them did you see? A William Mulhall?

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Q Before that was anything said by the defendant about the barber shop? A Yes.

Q What did he say to you about that? A Wanted to know why the boys did not wait for him before they went up, and I told him he was nowhere to be found, and he said yes he was, that he was in the barber shop. I said no, that I was over there, and then he told me that the boys knew he was coming back for his overcoat was in the restaurant.

BY MR. EDWARDS:

Q Who was it you said came back first after that? A Willie Mulhall.

Q Did he say anything to the defendant? A Yes.

Q What did he say? A "We got the prick."

Q What did the defendant say to that? A He knew they would get him.

Q What did he say? A "I knew you would get him."

Q What did Mulhall do? A Went back in the restaurant to change some of his clothes.

Q How was he dressed when he came in, A Had a cap, a red sweater and a blue serge suit.

Q Have a coat over the sweater? A Yes.

Q Blue serge coat over the sweater? A Yes.

Q You say he went in the back, just where do you mean by that -- taking this diagram, now point out to us where you mean he went in the back? A In behind the lunch counter.

Q Clear in behind or where the kitchen is, or where they

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serve? A No, away through in.

Q Away through in behind? A Yes, sir.

Q Indicating the passageway between the north wall of the restaurant and the north end of what is marked on the diagram as the serving counter, and indicating in behind the counter upon which the diagram shows coffee urns -- when he came out from behind there, how was he dressed? A Slouch hat on and an overcoat over his suit.

Q Did he have the sweater on? A No.

Q Well, when he came out what, if anything, was said? A He spoke about Arthur Bieler being a runner.

Q What did he say -- who did he say that to? A To Owney Madden.

Q What did he say? A He said "Jesus, I thought Arthur Bieler was a runner, but I beat him to it."

Q Did you see Arthur Bieler come in at all? A No.

Q After he said that, what did you say? A I asked him who he got.

Q What was said then? A Owney Madden told me to leave the restaurant and never come back again.

Q Did you go out? A Yes, sir.

Q Where did you go? A Up to Laura.

Q Up to the 43rd street room? A Yes, sir.

Q When you got up there, who did you find? A Just Laura Buckley.

Q Just Laura? A Yes.

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Q How long had you been there before you saw Margie again?

A About ten minutes.

Q When she came in, did you and she and Laura talk together?

A Yes.

Q Then what did you do? A Laura was in bed and we got her up and then dressed her up to take her to the hospital as she was very ill.

Q Then where did you go? A While we were walking down 8th avenue --or, 7th avenue, Margie telephoned to the restaurant.

Q You did not hear who she talked to? A No.

Q Did she tell you about the talk afterwards? A Yes.

Q Then where did you go? A We went down to the restaurant.

Q Did you all three go together? A No.

Q Who went first? A Margie.

Q Where did you and Laura go? A We stayed in 33rd street between 9th and 10th avenue.

Q How long was it before you saw Margie again? A About ten minutes after that.

Q How did you come to see her then? A She stayed away so long I went up and inquired where she was and Owney Madden told me she was over in the saloon and I should go over and he would be right over, and I told him I had Laura with me, and he told me to take Laura too.

Q Did you take Laura over there? A Yes.

Q What saloon was that? A Right on the opposite corner of the restaurant.

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Q Right across the street from the restaurant? A Yes.

Q South? A South.

Q That would put it on the southwest corner of 10th avenue and 33rd street? A Yes, sir.

Q When you got over there did you take Laura over there?

A Yes.

Q Who was there? A Owney Lawlor, William Mulhall, Arthur Bieler and Owney Madden.

Q Did you see Margery there? A No.

Q Now, did you have any conversation with the defendant yourself there in that saloon? A Yes.

Q What was that? A I told him that Margery said Patsy was dead and Owney Madden asked me what else did she say. I said she said she saw Willie Mulhall, Hoppo McArdle and Arthur Bieler up at Nash's, and he said "Did she say any more" and I said "No." He said "If he thought she would not stick he would take her and throw her in the river that night."

Q Did you hear any other conversation between the defendant and any one else? A Between the defendant and Margie.

Q What did you hear said between them? A Margery told Owney Madden that Patsy was dead and Owney asked her how did she know, and she said "Well, she said she believed it by hearing the shot -- that she thought he was dead."

Q Was that all of that conversation that you overheard?

A That night, yes.

Q How long did you remain there? A About fifteen minutes.

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Q Was there any other conversation? A Yes.

Q Tell us that? A Owney Madden and Willie Mulhall were talking about going to a racket away uptown, Moose Inn, and I asked Owney Madden if I could not go too, and so he said yes, after I brought Laura to the hospital that I could go up, and he had Willie Mulhall give me a ticket.

Q Where did you girls go then? A To Bellevue Hospital with Laura.

Q Did you leave Laura there? A Yes.

Q About what time did you leave Bellevue? A About eleven or ten minutes after eleven.

Q Where did you go then? A Went up to the Moose Inn.

Q Did the defendant tell you what this dance was up there at Moose Inn? A Yes.

Q What? A He said it was a benefit.

Q Did he tell you who it was a benefit for? A No.

Q Tell you who was running it? A No.

Q Did you go up to Moose Inn? A Yes.

Q Where is that? A 169th street and --

Q Was it on the east or west side? A The west side.

Q Was it up in the Bronx? A Yes, sir.

Q Did you go up there? A Yes, sir.

Q You and Margie? A Yes.

Q When you got there did you find any dance? A No.

Q Then what did you do? A Telephoned to the restaurant.

Q And who called up the restaurant? A Margery.

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Q Did you talk on the phone at all? A Yes.

Q Who did you talk to on the phone? A Owney Madden.

Q You knew his voice? A Yes.

Q What did he say to you? A To come down to the restaurant as quickly as possible, and I asked him if I could not have a taxi and he said no.

Q Did you go down? A Yes.

Q You and Margie? A Yes.

Q What time did you get to the restaurant about? A About half past twelve or one o'clock.

Q When you got there who was there? A Owney Lawlor, Owney Madden and Jimmy O'Connor and Tammany's brother.

Q Now, did you have any talk with the defendant after you reached there? A Yes.

Q Won't you tell us if you can -- tell us what you did when you got down there? A Owney Madden asked me if I was going to go back to the flat in 43rd street. I said "No, that I wouldn't think of going back there." He told me that was proper, that I should not go back there, and so he jumped up and went to the telephone.

Q How was your party sitting there in the restaurant at that time, can you tell us? A Margie and Owney Lawlor were sitting here (indicating).

Q At the first table nearest the door on the north wall of the restaurant? A And Owney Madden and I were sitting at that table (indicating).

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Q Indicating the second table on the same row from the door?

A And Jimmy O'Connor and Tammany's brother was sitting there (indicating).

Q Indicating the third table on the same row from the door--  
who  
and were those the only people/were in the restaurant? A Besides  
the waiter.

Q Now, were you eating? A No, sir.

Q Were you doing anything? A Reading papers.

Q Newspapers? A Yes, sir.

Q What were you reading about in the newspapers? A We were  
looking for the murder of Patsy Doyle.

Q You say that the defendant went to the telephone, did you  
hear what he said over the telephone, whom he spoke to? A He spoke  
to Dodo Fitzsimmons.

MR. COLLIGAN: I object to that.

THE COURT: Objection sustained.

BY MR. EDWARDS:

Q What did you hear him say? A "Come over as quickly as  
possible."

Q Anything else said? A Bring a taxi and the King with  
him.

Q What happened, if anything? A About two minutes after  
that Dodo Fitzsimmons and the King were around to the door.

Q Before that time had anything been said by the defendant  
with respect to your reading newspapers or anything? A Yes, sir.

Q What? A Owney Madden said if a cop should ever pass and

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see us reading the papers it would look very suspicious, and I said "Why no, we are only just reading the morning papers."

Q What happened next? A Dodo and the King came in, and Owney went over and shook hands with the King, and then Owney Madden took Dodo Fitzsimmons to the far end, and spoke to him all alone.

Q What did you do? A Owney Lawlor and Margie Everdene and Owney Madden and Dodo Fitzsimmons and the King and I went in the taxi and went to the King's flat.

Q Where? A 238 West 30.

Q I forgot to ask you whether in the early evening of the Saturday that Doyle was shot, you gave Margie anything when she went to Nash's and you went to the saloon, A Yes, sir.

Q What? A A letter.

Q To whom? A I wrote it to Patsy.

Q I show you a paper and I ask you if that is the letter you wrote to Patsy? A Yes, sir.

(The letter is marked for Identification People's Ex. 11)

Q That is written by you? A Yes.

Q When you were speaking to Doyle over the telephone that evening, when you were at the restaurant and he was at Nash's, was this letter mentioned between you? A Yes.

Q And discussed? A Yes.

Q And after that at any time did you discuss this letter with the defendant? A Yes.

Q When was that? A After he came in the restaurant.

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Q That was down in the restaurant? A Yes, sir.

MR. COLLIGAN: At what time.

BY MR. EDWARDS:

Q When was that? A Must have been about half past eight.

Q You mean it was when he came into the restaurant as you have described him, out of breath? A Yes, sir.

Objected to as improper.

MR. EDWARDS: I just want to fix the time.

BY MR. EDWARDS:

Q Now, was that before or after Mulhall came in? A Before.

Q Will you tell us what was said between you with reference to this letter? A I told Owney Madden I sent up a letter to Patsy Doyle. I said I did not go home and he said that was right, that was right for me to write that letter and send it up.

Q That was all that was said between you about it? A Yes.

Q Now, to come back to the time that Dodo Fitzsimmons and the King arrived at the restaurant -- what was done next? A We went in the taxi.

Q Who with? A Owney Madden, Owney Lawlor and Dodo Fitzsimmons and Margie and myself and the King.

Q Then you went to the flat? A Yes.

Q What number? A 238 West 30.

Q What floor was that flat on? A The ground floor.

Q When you got there, what did you do? A Margie and I walked in the kitchen and the four men stayed in the parlor, the front room.

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Q How long did they remain there? A About ten minutes.

Q Then what happened? A Owney Madden and Owney Lawlor came in the kitchen and the King and Dodo Fitzsimmons went away.

Q Now, after Dodo Fitzsimmons and the King had gone, was there any conversation between you and Margie and Owney Lawlor and this defendant? A Yes.

Q Tell us what you recollect of that conversation? A Owney Madden asked Margery what she saw when she was at the cafe or saloon and she said she saw the three fellows going in, and he said to her -- Owen Madden said to Margie "Are you sure there was not five instead of three."

Q Did she mention who the three were? A Yes.

Q What names? A Willie Mulhall, Hoppe McArdle and Arthur Bieler. Margie said she was sure there was not five, that there was only three, and Owney Madden said to her "If you stick to the part where you are saying that there was only three, if you stick to the part you did not see any one, everything will be all right"

Q Was there any other conversation besides that? A Yes, sir.

Q What was that? A Owney Madden told Margery and I he never liked to have women in his troubles because he knows what they are, but that if us two stuck to him, say we just know him from ~~the~~ going around dancing, that ~~the~~ everything will be all right, because he knows he will be picked up on suspicion of this murder, but he will get out of it.

Q Is that all you can recollect? A Yes.

Q That is all you recollect now? A Yes, sir.

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Q Was there anything said in that conversation about whether or not the defendant had been in Nash's saloon that day at all?

A Yes, sir.

Q What was that? A Owney said he went up with Marty Ellis twice that day, went all through Nash's saloon looking for a fellow with two gold teeth, and I passed the remark I said "Patsy only had one gold tooth", and I said "Suppose you did get a fellow with two gold teeth, you would have had the wrong fellow and what would you have done?" He said he would have handed it to him right there and then, and I told him if he had the wrong fellow would he do the same thing and he said yes, to have any of them.

Q What time that morning did you go to bed, you four?

A Must have been about three or 4 o'clock in the morning.

Q How did you sleep that night, how did you divide up?

A Owen Madden and I went into the first room from the kitchen and Owen Lawlor and Margery went into the room behind us.

Q I show you this diagram, People's Exhibit 3, which is the diagram of the King's flat, here is the entrance hall, here is the parlor and the bedroom and another bedroom and what is marked here as a living room? A And kitchen.

Q Kitchen in the back here, and the storeroom and the bathroom, can you indicate on that which bedroom you and Owney Madden occupied? A There (indicating).

Q The one right back of the kitchen? A Yes.

Q And the other one, the one in front of that, is the one that Owen Lawlor and Margie were in? A Yes.

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Q Now there is a window here, did that have any glass in it that night? A No.

Q Did you have any conversation with this defendant after you went to bed? A Yes.

Q Tell us what that was? A Owney Madden told me that he was standing in front of the cigar store while the shooting was going on, and I asked him what he was doing, superintending the job? And he told me that was none of my business. Then I passed the remark saying I knew the boys would not do that without him knowing something about it or sending them up, and he said "That was the leader part of it."

BY MR. COLLIGAN:

Q That was what? A That was the leader part of it.

BY MR. EDWARDS:

Q Did he say anything else? A Then he said that he was only fooling about -- everything that he did say he did not mean a word of that.

Q Did he give you any caution of any kind about what he told you? A I beg your pardon?

Q Did he give you any caution of any kind about what he told you? A No.

Q Was that all the conversation you had with him that night in bed? A I asked him why did he tell me when he came to the restaurant that he was to the barber shop and he said he was so excited he did not know what to say, and then I told him he looked as though he was running, and he said he did not do much run-

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ning, he only ran from his mother's house to the restaurant.

Q Did he say what he went to his mother's house for? A No.

Q Does that cover all the conversation that you had in bed that night? A That is before Arthur Bieler came in the flat.

Q Did Arthur Bieler come in that morning? A Yes.

Q About what time? A About 6 o'clock.

Q And where did he come in? A He came in through the parlor and went out to the kitchen.

Q Went out through the bedrooms? A Yes.

Q Did anybody else go out to the kitchen with him? A Owney Madden and Owney Lawlor.

Q Both went out? A Yes.

Q Now did they talk in a loud voice in there or a low voice?  
A At first spoke loud.

Q Did you hear any of their conversation? A Yes.

Q Hear anything said about the shooting? A Yes.

Q Tell us what you heard about the shooting? A The first I heard was Owney Madden asked Arthur Bieler where did he get it, and Arthur Bieler answered that he sent Jimmy O'Connor around to the Hayward Club, and then I heard Arthur Bieler say that he knew Patsy was dead because he got him through the heart.

Q What did Margie do then? A Margie came in to me and she said "There, I told you Arthur Bieler was in it."

Q What did she do after that, or the defendant? A Owney Madden told her she knew too much for her size, and to go back to bed.

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Q Did she go back to bed? A Yes.

Q After that did you hear any more conversation? A No, sir, they spoke very low.

Q How long did they remain in the kitchen after that? A About half an hour.

Q Then what did they do? A Owney came back to bed and Arthur Bieler went to bed with Margery and Owney Lawlor.

Q Now, did you have any talk with the defendant after he came back to bed, after Bieler's conversation? A Yes, sir.

Q What was that? A I asked him why he was so interested in Bieler's conversation when he said he was up there. He said he was not as close a witness as Margery was to the shooting.

Q What time did you wake up on Sunday or get up on Sunday? A In the afternoon.

Q When you got up what did you talk about that day, if anything? A Margery and I decided about going up and getting our clothes in 43rd street and I asked Owney Madden if he was going to go to Tammany Hall that evening. He said yes, but if he did go that Margery and I were not to recognize him or any of the boys because in case any cops should be in there, it would look very suspicious.

Q Did you and Margery go anywhere that afternoon? A Yes.

Q Where? A Went over to see Laura in Bellevue.

Q Was there anything said about that between you and the defendant before you went? A Yes.

Q What was that? A He told me not to say anything to Laura

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about the case whatsoever.

Q Did he tell you anything else to say to her? A No.

Q Was there any talk that afternoon about the possibility of you girls being picked up by the police? A Yes.

Q What was that? A Owney said he knew he would be picked up and he was positive of Margery being picked up, but he was not so sure about me, but if Margery stuck and if I stuck to him, everything would be all right, that we always would have a friend in either him or any of his bunch.

Q Did he say who he meant by that word "bunch"? A No, sir.

Q Did you understand it? A Yes.

Q Now, did you go down and see Laura? A Yes.

Q What time did you get back? A Well, we had to leave Laura at 4 o'clock.

Q Then did you go back to King's flat? A No.

Q Where did you go then? A Margery and I went to a racket in Second Street and Avenue A, a dance.

Q Did you go to Tammany that evening? A Yes.

Q Did you see any of the men there that evening? A Yes.

Q Who did you see? A William Mulhall and Arthur Bieler, Marty Ellis, Owen Lawlor, Owney Madden and Hippo Harris.

Q You said Hippo Harris? A Harris.

Q Was Hippo McArdle there? A No.

Q What is Hippo Harris' real name, do you know? A No, sir, they call him Whitey sometimes.

Q Whitey and Hippo both? A Yes, sir.

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Q Were all these men whose names you have mentioned, men whom you had seen in the company of the defendant? A Yes.

Q Where had you most often seen them in his company? A In the restaurant at 33rd street and 10th avenue.

Q Now did you speak to any of them that night down there?

A No.

Q Did Madden speak to you at all that night? A He did not exactly address me, but he spoke about me as I passed him.

Q When was that? A That was about half past eleven when he was speaking to Vin Kelly.

Q Who is Vin Kelly? A A fellow I used to keep company with.

Q Where did you see the defendant and Vin Kelly? A In Tammany Hall speaking.

Q Did you hear anything said by either to the other? A No, sir, only when I passed Owney Madden said "Here comes my girl."

Q What time did you go home from Tammany that evening?

A About one o'clock Monday morning.

Q Who went home with you? A We met -- Owney and I made arrangements that we would meet at Irving Place and 14th street after the racket was over.

Q That is, the defendant and you? A Yes, sir.

Q There are two Ownies, and I want to be sure which one you meant? A Yes, sir.

Q Did you leave the dance with anybody or alone? A With Margery.

Q Did you meet the defendant? A Yes, sir.

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Q Where? A 14th street and Irving Place.

Q Where did you go? A Took a car and went home to the King,s flat.

Q Anybody else go with you? A Marty Ellis was in the car and Owney Lawlor and Owney Madden and Margery and I and Hippo Harris.

Q Did Marty Ellis go into the flat with you? A No.

Q Did Harris go? A Yes.

Q What time did you reach the flat? A About half past one or quarter to two.

Q When you got there was there any conversation that evening? A Yes.

Q What was it? A Almost the same conversation that if we did get picked up, that we were to stick, and I noticed the ring on Owney Madden's finger and I asked him for it, and he said no, in case I did get in trouble, everybody downtown knew O.M. and I told him if I did get in trouble I would do away with the ring.

Q Did he give you the ring? A Yes.

Q I show you a ring and I ask you if that is it? A Yes,sir.

Q That is it? A Yes,sir.

Marked for Identification people's Exhibit 12.

Q Now, did anything more happen on that day? A After Owney and I went to bed.

Q What was that? A He told me that he was convinced now that I would stick to him so everything he told me about his being up there was true.

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Q Did he say why he was convinced you would stick? A He said that Vin Kelly told him I would stick.

Q Did he say anything about Margery at that time? A He said that I should not tell Margery anything about that.

Q Referring to what? A Saying that he was up there.

Q Now, was there any conversation that night between you and the defendant in which you spoke of Patsy? A Yes, sir.

Q What was that? A Well, I said to him, I told him, "Just think, I was speaking to Patsy Friday night and now he was dead" and Owney said "Yes, it was quick work, he did not expect it that soon himself, but he knew it was coming off." I had telephoned to him a week before the murder and he said he knew then that it was all planned and I said "What was planned" and he said "To croak Patsy Doyle."

Q Did you ask him anything more? A No, sir.

Q Did you ask him why? A Yes.

Q What did he say to that? A He said "Because he was a rat and that he was afraid of him."

Q Did he say why he was afraid of him? A Afraid of him squealing.

Q Have you told us all that you recollect now of your talks with Madden up to that time? A Yes.

Q Did anything more happen that night, or did anything happen the next morning, Monday? A Yes.

Q What happened then? A Jimmy O'Connor came into the flat and told Owney Madden that the cops were wise to the restaurant

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telephone number, and so Owney said he was in for it now, that if the cops were wise to the restaurant number they surely were wise to the saloon number and everybody knew him and they would surely pick him up for it, and then he said to Jimmy O'Connor that he too knew too much for his size, and then he said to me "Give me that ring back" and I told him I would not give it back to him, and then he also spoke about a letter, he said to Jimmy O'Connor, he spoke something about a letter downtown with the initials O.M. in it.

Q Have you told us now substantially all that you know about this murder of Patsy Doyle? A I think I have.

Q There is nothing else you know that you can add to what you have told us? A No.

CROSS-EXAMINATION BY MR. COLLIGAN:

MR. EDWARDS: I would like to urge, before I turn this witness over for cross-examination, that at this point it would be competent to show what was said in that telephone conversation, so far as the Bieler end of it was concerned. I will have to recall the Everdeene girl to show what was said on the Doyle end of it, but it seems to me it is competent now.

THE COURT: I think not. It seems to me what she testified to has demonstrated that it is incompetent.

MR. EDWARDS: What was that?

THE COURT: What she subsequently testified to has demonstrated that it is incompetent.

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MR. EDWARDS: It appears now by the admission of the defendant that the killing of Doyle was planned a week before; that this defendant was present immediately outside the restaurant at the time the killing was taking place, and that when this witness said to him "I did not think the boys would do that unless you sent them or were there", he said "That is the leader part of it."

THE COURT: That may be true as to the general scheme, but it appears from her testimony that immediately after this conversation one of these men said "This is too much" -- for some article that was handed to him, and in a few minutes the defendant came in and asked them why they had not let him know, or some such thing as that.

MR. EDWARDS: That is arguable both ways, either as an effort to throw the girl off the track or as a bona fide statement. It is my theory that it is the first and not the last. She said that within twenty minutes to half an hour -

THE COURT: I do not think it would be safe to admit it and I will exclude it.

CROSS-EXAMINATION BY MR. COLLIGAN:

Q Did you ever use a drug? A No.

Q Positive of that? A Positive.

Q How long since you have been away from home? A Over a year

Q For how long a period up to the time of the shooting had

you been afflicted with syphilis? A I have never been afflicted with syphilis.

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MR. EDWARDS: I object. This witness has admitted that she earned her living as a prostitute for some period of time and that ought to be enough.

THE COURT: I do not see how that bears on her credibility, in view of her admission.

BY MR. COLLIGAN:

Q When did you first meet Doyle? A The 1st of November.

Q 1914? A Yes.

Q Where did you meet him? A In Nash's cafe.

Q Who was with him at the time? A William Mott.

Q When did you begin to live with Doyle? A In the same day.

Q Who introduced you to him? A Margery Everdene.

Q Where did you live with him? A 43rd street.

Q How long did you live with him? A Three weeks.

Q When did you first meet the defendant Madden? A I knew him for about two years.

Q When did you first meet him? A Some time in October.

Q In 1914? A To talk to, yes.

Q Where was that? A In Freenzy's.

Q Where is that? A A dance hall in Long Island, Jackson Avenue.

Q You did see him on Thanksgiving afternoon? A Yes.

Q And where did you go with him on Thanksgiving afternoon?

A No place.

Q Where did you see him? A Tammany Hall.

Q Did you dance with him? A No.

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Q Did you speak to him? A Yes.

Q Did you go home with him? A No.

Q When next did you see him? A Thanksgiving night.

Q Where? A He came around in a taxi to meet Laura and I  
at Tammany Hall.

Q Did you meet him in Tammany Hall? A Outside of Tammany  
Hall.

Q Did you go home with him? A Yes.

Q He went home with you? A Yes.

Q To where? A 43rd Street.

Q Who were you living with there? A Margie Everdene and  
Laura Buckley.

Q You were all living there in one room? A Yes.

Q How long had you been there? A Only since I left Patsy  
Doyle.

Q Do you recollect how many days you had been in that one  
room? A One day.

Q For me, yes.

Q When did Laura go there? A I don't know.

Q How many places have you lived in during the last year?

A I don't know.

Q A great many? A Yes.

Q How many men have you lived with during the last year?

A I don't know.

Q Too many to remember? A Yes.

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Q What time did you leave the dance on Thanksgiving night?

A It was about one o'clock Friday morning, we left the dance.

Q Where did you go? A We took Laura home, Owney Madden and Hoppe McArdle---we took Laura to 33rd Street and left Laura there and then Owney Madden and I went west to Brown's cafe, 42nd Street near 8th Avenue.

Q How long did you remain there? A About two hours.

Q Where did you go then? A Back to 43rd Street.

Q Whose place? A Margie's.

Q How long did you remain there? A I remained there all the time.

Q You referred to a conversation between Madden and Margie in which the name of May O'Donnell came up? A Yes.

Q Do you recollect when that conversation took place? A Yes.

Q When and where was it? A In Devanney's, Friday evening.

Q There was some conversation relative to a man whose name is "T" Romanello? A Yes, sir.

Q That is quite correct? A Yes.

Q State what that conversation was? A Owney Madden asked Margie if May O'Donnell ever told Patsy what he had told her to tell Patsy, and Margie said yes, she knew something.

Q You are positive that Margie made that answer? A Yes, sir.

Q That May O'Donnell had told her? A Told Patsy.

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Q Had told her that she, May O'Donnell, had told Patsy? A Yes.

Q Something that Madden wanted May O'Donnell to tell Patsy Doyle? A Yes.

Q You mean Owen Madden?

MR. EDWARDS: Something Owen Madden wanted May O'Donnell to tell Patsy Doyle, you mean?

MR. COLLIGAN: Yes.

BY MR. COLLIGAN:

Q What else was said at that time and place? A Owney Madden asked me if Patsy Doyle was keeping me or if I was keeping him. I answered that Patsy Doyle was keeping me.

Q Had you known this May O'Donnell at all? A I knew her by sight and from seeing her down in the House of Detention, that is all.

Q As a matter of fact May O'Donnell was Patsy Doyle's sweetheart, is not that so? A Yes.

Q Now, get around to Saturday, the day of the shooting, I understood you to say that "Red" Lyons came around from the cafe and brought a message from Willie Mott, am I correct? A I did not say that, but that is true.

Q And he made a second trip to the room, is that so? A That is true.

Q And then what happened? A Margie and I and Laura read over the note that Mott did send.

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Q There was a note received in that room? A Yes.

Q Who received the note? A Margery.

Q What was done with the note? A It was brought down to Owney Madden.

Q Who brought it down to him? A Margie.

Q How do you know? A She said she brought it down.

MR. COLLIGAN: I ask to have that stricken out as not responsive.

THE COURT: It is responsive. You asked her how she knew.

MR. COLLIGAN: It is hearsay.

MR. EDWARDS: Then you should not have asked the question.

THE COURT: I will allow it to stand, because it was responsive to the question asked by Mr. Colligan.

BY MR. COLLIGAN:

Q How do you know that note was given to Owney Madden? A Just by Margie saying it was given to him.

MR. COLLIGAN: I ask to have it stricken out.

THE COURT: It is responsive to your question, asking her for the source of her knowledge, and she gives it.

Exception.

BY MR. COLLIGAN:

Q What time did Margie go out? A About five or half past.

Q When did she return? A About six or half past. She was one about a half hour or three quarters of an hour. I don't know which.

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Q When did she return? A I said about six or half past.

Q Did you go out immediately after that? A No.

Q Did Margie go out immediately after that? A No.

Q At what time did you go out? A 7:30.

Q Did Margie go out with you at that time? A Yes.

Q You both went out together? A Yes.

Q And where did you go? A Both of us walked down to 40th Street and 9th Avenue and Margie left me and went to Nash's and I went down to the restaurant.

Q What time did you reach the restaurant? A About five minutes to eight.

Q You are very positive of that? A Yes.

Q On arriving at the restaurant whom did you see? A The first one I saw was Marty Ellis.

Q Who else did you see? A When I went into the restaurant I seen Jimmie O'Connor, Arthur Bieler, Willie Mulhall, Hoppe McArdle and Tammany's brother.

Q Whom did you first speak to at that time? A Marty Ellis.

Q How long did you speak to him? A About five minutes.

Q What next did you do? A Went into the restaurant.

Q What did you do in the restaurant? A I asked where Owney Madden was.

Q Who did you ask? A No one in general---no one---

Q No one in particular? A No, I just looked in and asked.

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for Owney Madden.

Q What did you do next? A Jimmie O'Connor told me he was up to the restaurant---up to the barber shop. And I walked out and walked to the barber shop but could not see Owney Madden.

Q What did you do next? A Walked back to the restaurant.

Q Do you recollect how many chairs were in the barber shop?

A I think there was about three.

Q You are positive of that? A No, I am not positive.

Q Do you recollect how many people were in the barber shop?

A No, I only saw the barbers, no people at all.

Q No other people? A No.

Q Saturday night? A Yes.

Q At 7:55 or 8:00 o'clock? A Yes.

Q What next did you do? A Walked back to the restaurant.

Q Then what did you do? A Spoke to Marty Ellis about two minutes and the telephone rang.

Q So that at eight o'clock you went to the barber shop and came back and spoke to Marty Ellis a couple of minutes and then the bell rang? A Yes.

Q Who answered the 'phone? A Marty went in to answer the 'phone.

Q Who next went to the 'phone? A I did.

Q How long did you talk? A About two or three minutes.

Q Who next went to the 'phone? A Arthur Bieler.

Q How long did he talk? A About two minutes.

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Q How long a time did all this talking take---how long a time did this entire situation take, from the time you started to go to the barber shop and came back, talked with different people and talked with people over the telephone and listened to conversations of other people over the telephone---how long did all this take? A No more than a quarter of an hour.

Q No more than a quarter of an hour? A No.

Q Now, up to this time you had not seen Owney Madden, the defendant? A No, sir.

Q After the telephone conversation, what did Bieler, McArdle and Mulhall do? A First, Arthur Bieler called over Jimmie O'Connor and sent him out somewhere and then they waited about two minutes and Jimmie O'Connor was back and then the three that you mentioned left the restaurant.

Q Three? A Yes.

Q You are positive three left the restaurant? A Positive.

Q Do you remember testifying in the McArdle case? A Yes, sir.

Q Do you remember testifying to the effect that Bieler and Mulhall---Bieler left the restaurant with Mulhall? A Yes, sir; I remember.

Q And McArdle's name was not mentioned? A Yes, I remember saying that.

Q What refreshed your recollection since then? A I refreshed my own recollection.

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Q Your memory is fresher---it is fresher in your memory now than it was six or seven weeks ago? A Yes, I came down and told Mr. Deuel I made a mistake.

Q Who induced you to refresh it? A Myself.

Q Jimmie O'Connor came back with something and gave it to Arthur Bieler? A Yes.

Q And Jimmie O'Connor was gone for how long a period? A Two minutes.

Q Only two? A About two.

Q Then these three men went out? A Yes.

Q And how long did you remain there after they went out?

A I should say about a half an hour.

Q So that would make it about quarter to nine? A Yes, sir.

Q Even omitting the time Jimmie O'Connor went out and came back again---you are very positive of that? A Yes.

Q When next did you see the defendant, if at all? A About twenty minutes after the three left the restaurant.

Q About twenty minutes after the three of them left the restaurant? A Yes.

Q That would make it about---having left the restaurant about 8:15, that would make it about twenty-five minutes to nine? A Yes, sir; about that.

Q Who were you talking to when Madden came into the restaurant? A No one.

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Q At 8:35? A No one.

Q Why were you waiting there? A Waiting to see Madden.

Q Did you notice from which direction he came? A No. My back was towards the door.

Q How was he dressed when he came in? A He had a cap on. That is about the only thing I noticed.

Q Didn't you testify a few minutes ago that he had a slouch hat on and an overcoat? A Madden?

Q Yes? A No, sir.

Q Why did you go down there to see Madden? A Because Margie told me to go down there and to wait there and see if Willie Mott should hit her, and that I was to call up---

~~If~~ If Willie Mott did hit her, I was to call up at the restaurant and put the boys wise.

Q If Willie Mott was to strike Margie, you were to tell Madden? A That was the way Madden and Margie and Marty Ellis had it all planned up before Margie left.

Q Where? A Before Margie left the restaurant, after the note was taken down to Madden.

Q That is the first time you have told that? A Yes, sir.

Q Did you ever tell anybody else that? A Yes, I told Mr. Edwards.

Q How long ago? A When I made my statement.

Q How long ago did you make that statement to Mr. Edwards?

A About six weeks ago I believe I made this statement.

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Q You have made several additional statements, since your arrest? A Yes.

Q In fact the older the case grows the more you remember about it? A Yes.

Q Madden came in about 8:35. What did you do then? A I told him I received the telephone call.

Q How did he appear as he came in? A As I said before, out of breath.

Q As though he had been running? A Yes.

Q You are positive of that? A Positive.

Q You had quite a talk with him there? A No, not such a very long talk.

Q So that Bieler and McArdle and Mulhall went out at 8:15 and at 8:35 Madden came into the restaurant? A About that.

Q Then you had some talk with him? A Yes.

Q And then it was that you say he was all out of breath? A Yes.

Q What did you say to him about that? A I did not speak to him at all about being out of breath.

Q Did not notice that at all? A I did not say anything about it. I noticed it.

Q Did not think anything about it? A Not at that time I did not.

Q Do you recollect testifying in the McArdle case to this effect, that Arthur Bieler and Mulhall went out, and Madden came

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in the restaurant, that you had a talk with him, and that Bieler and Mulhall returned to the restaurant in about fifteen minutes?

A I did not say Bieler, I said Mulhall returned to the restaurant.

Q Are you positive of that? A I said that, but that is not true.

Q So you were lying when you said that? A Yes.

Q You will admit now that Mulhall came into the restaurant in fifteen minutes after? A No, sir; all that is a lie.

Q All that is a lie? A Yes.

Q I want you to tell the jury whether you are lying now or you were lying in the McArdle case? A I was lying in the McArdle case.

Q And still the man was convicted of manslaughter and you know that you were one of the principal witnesses, were you not?

A I do not know.

Q Don't you consider yourself one of the principal witnesses in this case? A I don't know whether I am called that or not.

Q You don't know? A No.

Q Why did you lie in the McArdle case? A At first I was going to lie all through it, but being a true Catholic, as I wished to be, after I did get out of this case, I told the truth.

Q Do you consider yourself a true Catholic, you, a common prostitute? A Now, I do, yes.

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Q Because you are locked up? A No, not because I am locked up, but because I intend to do right.

Q Still you are willing to send a man to the electric chair?

A I am not lying, I am telling the truth, and that is all I can do.

Q When did Madden leave the restaurant, while you were there or while you were outside? A Saturday night?

Q Right after the shooting? A After the shooting I did not see him leave the restaurant, I left the restaurant.

Q You left him at the restaurant? A Yes.

Q Where did you go? A I went up to 43rd Street where we were living.

Q Where you, Laura and Vargie were living? A Yes.

Q What time did you arrive at 43rd Street? A I don't remember.

Q You don't remember? A No.

Q But you remembered it during the McArdle trial? A No, sir.

Q And you remembered fifteen minutes ago in answer to Mr. Edwards, did you not? A No, sir.

Q I thought as time went by your memory became better? A It does.

It does not? A It does.

Q How long after Madden came into the restaurant on the night of the shooting, did Mulhall come in? A Five minutes

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after.

Q You are positive of that? A It seemed five minutes; I had no watch to see.

Q What conversation did they have at that time? A Mulhall said to Madden that they got the prick, and Madden said that he knew they would get him.

Q Mulhall said? A They got the prick.

Q What did Madden say then? A That he knew they would get him.

Q Up to that time what had you known of any trouble between Doyle and Madden? A Only what Patsy Doyle told me.

Q And Madden, without any introduction into the matter at all, made that statement before you? A What statement?

Q The statement that you have just made in answer to Mulhall?  
A Yes, sir.

Q Who else was in the restaurant at the time that he talked about the murder? A Jimmie O'Connor and Tammany's brother.

Q Did you notice at the time whether Madden had been cleanly shaved and had his hair cut? A I did not notice.

Q Didn't you think anything of his personal appearance at all? A Yes, sir, but I did not---I never looked if he had a shave or not.

Q You cannot tell whether a man has a shave or not? A Yes, I can.

You seem to have a very vivid recollection of everything

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that occurred that night? A No, I have not.

Q I presume that had you been asked before this, you might have had an answer, is not that so? A No.

Q That is some little thing that has been forgotten during the last eight or nine months?

Objected to. Sustained.

Q What other conversation occurred there, if any, between Madden and any other party? A The conversation that Willie Mulhall said that he thought Arthur Bieler was a runner, but he beat him to it.

Q Did Mulhall or Bieler appear to have been running? A I only saw Mulhall. He did appear to have been running.

Q Did you ever tell that to any one? A Yes.

Q Who? A Mr. Edwards.

Q Was Mr. Edwards the first man you ever told it to? A I don't know; I don't remember.

Q Your recollection ought to be fine, according to you.

MR. EDWARDS: I object to the comments of counsel. They are out of place.

THE COURT: Yes, that is not a question.

BY MR. COLLIGAN:

Q How long did you remain in the restaurant with these boys?

A About two minutes after Willie Mulhall came in.

Q Only two? A About that.

Q All this conversation referred to took place within two

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minutes? A Yes, sir; it was done in an awful hurry.

Q You were in an awful hurry? A It was done in an awful hurry, the conversation that they had.

Q Then you went to the room? A Yes.

Q What did you do when arriving at the room? A I told Laura Buckley that I figured Patsy Doyle was shot, and then about two minutes after Margie came in with the statement that he was dead.

Q Then what did you do? A I asked her how she knew, and she said the only way she knew was by hearing the shot.

Q Where did you go---did you leave the apartment again? A Yes.

Q With whom? A With Laura and Margie.

Q Where did you go? A Margie wanted to telephone to the restaurant, so we went down to Times Square to telephone, 42nd Street and Broadway.

Q Where did you go then? A We left Margie and she went down to the restaurant to see Owney Lawlor.

Q And you know the purpose of her going to see Owney Lawlor? A No, sir.

Q Don't you know? A No, sir.

Q Did Laura have any money? A What?

Q Did Laura have any money? A It is not Laura---it is Margie went to the restaurant.

Q Did Laura have any money? A No, but I had money.

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Q You are positive of that? A Yes, sir.

Q Is it not a fact that she went to Lawlor to secure car-fare? A No, sir.

Q So that Laura could be brought to the hospital? A No, we had the car fare, but all we asked was for a taxi to get over to the hospital quickly.

BY MR. EDWARDS:

Q Did you get it? A No.

*By Mr. Callahan*

Q Then you went to the hospital? A After we went to the cafe.

Q You went to the cafe on the south side of the street opposite the 10th Avenue and 33rd Street restaurant, and who went in the cafe? A There was <sup>Owney</sup> ~~only~~ Lawlor and William Mulhall and Arthur Bieler and Owney Madden and Margie and Laura and myself.

Q Did you participate in any conversation with the defendant at the cafe? A Yes.

Q Tell us what that was? A I told him that Margie said Patsy was dead, and she seen the three fellows, meaning Arthur Bieler, William Mulhall and Hoppe McArdle go into Nash's. And Owney Madden asked me if she said any more, I said no, and he said if he thought she was going to squeal, he would take her and throw her in the river that night.

Q Who was listening to the conversation? A The rest of the crowd, all except Margie.

Q What was she doing? A She went into the ladies' room.

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Q During the time of this conversation Margie was in the ladies' room? A Yes.

Q So Margie could not have heard the conversation? A No, but I told her.

Q You told them that you were going to the hospital with Laura, did you tell the defendant that? A Yes.

Q He did not suggest at all that you keep under cover---do you understand what I mean? A No.

Q Did he suggest to you at all that you hide or keep away from the public? A Not then.

Q Positive of that? A Yes.

Q What did you do when you left there? A Went to Bellevue Hospital.

Q After you left Bellevue what did you do? A Margie and I took the elevated up to 167th Street and took the crosstown over to Jerome Avenue to the Moose Inn---I did not know before the Avenue and it just came to me---it was Jerome Avenue.

Q What? A I didn't remember the avenue before, but it just came to me, it is Jerome Avenue.

Q You went to Moose Inn? A 169th Street and Jerome Avenue.

Q And you found---A No dance.

Q But you found out there had been a dance there? A Yes, sir.

Q But you arrived after it was over? A Yes.

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Q What time was that? A About one o'clock.

Q What did you do at one o'clock? A Margie telephoned to the restaurant and she had Owney Lawlor on the wire, and she handed the receiver to me, and when I spoke over the 'phone Owney Madden was on the wire.

Q What did you say to him? A I asked him to send up a taxi to get downtown to the restaurant.

Q Didn't you have your carfare? A Yes, but we wanted to get down there quickly.

Q And in style? A Yes---as you may call it.

Q You have stated that you told Madden you would not go back to the apartment where you had been stopping with Laura and Margie? A Yes.

Q You are positive of that? A Yes.

Q And you are positive Madden did not tell you that you could not go back? A He did not say I could not go back. He said "That is right, do not go back."

Q But you introduced the subject and said that you did not want to go back to that apartment? A Yes.

Q Then you went back to the restaurant? A Yes.

Q Who purchased the newspapers? A Owney Madden.

Q Positive of that? A Called Jimmie O'Connor over and sent him out and Jimmie O'Connor came back with newspapers, so I think he did.

Q How long did you remain there? A About an hour, I guess.

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Q Then what occurred---question withdrawn. During that hour who was there? A Owney Lawlor, Owney Madden, Jimmie O'Connor and Little Tammany---Tammany's brother, and Margie and myself.

Q The subject of the conversation, I presume, was the murder? A Yes.

Q Every one was talking about it? A Yes.

Q What else did Madden say to you, if anything, relative to the murder? A He said if the cops would pass it would look very suspicious, us having the papers.

Q The mere reading of the papers? A Yes.

Q What did you say to that? A I said, "Why no, we are only reading the morning papers."

Q What other conversation occurred relative to the murder?

A I don't remember of any there.

Q That is all the conversation that occurred relative to the murder, the mere fact that you were reading the newspaper account? A Yes.

Q That was during one entire hour? A Yes, sir.

Q At the end of the hour what did you do? A Madden had called up Dodo Fitzsimmons to come around as quickly as possible and bring a taxi with him and bring the Flower King with him.

Q As quickly as possible? A Yes.

Q You use those words a good deal, do you know what that means? A Yes.

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Q You wanted to get to Bellevue as quickly as possible?

A Yes, sir.

Q And Madden wanted to get the machine as quickly as possible after you people had loafed there an hour in the restaurant? A Yes.

Q You are positive that he used those words "as quickly as possible"? A Yes.

Q And then the man came over? A Yes.

Q And what was said there? A I don't remember---I did not hear what Owney Malden said to Dodo Fitzsimmons.

Q Owney Madlen talked in another part of the room to Fitzsimmons? A The same room, but a different corner from where I was.

Q And nothing was said relative to hiding, so far as you know? A Not at that time.

Q Margie was close to you? A She was about right over there.

Q Right next to you?

MR. EDWARDS: The next table, you mean? A Yes, the next table.

BY MR. COLLIGAN:

Q If anything had been said relative to that you would have heard it?

MR. EDWARDS: I object as calling for a conclusion.

THE COURT: If you know---I will allow her to state, if she

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can.

Objection overruled.

BY MR. COLLIGAN:

Q Answer that question.

MR. EDWARDS: If you can.

BY MR. COLLIGAN:

Q If any such conversation occurred, you would have heard it? A Well, I don't really know whether I would have heard it or not.

Q You know now what was expected of you when that was answered by the District Attorney? A Why, no.

MR. EDWARDS: I object to that. That is an outrageous proceeding.

THE COURT: She says she does not.

BY MR. COLLIGAN:

Q You do know you could have heard what was said, had any such thing been said---now, tell the truth? A To tell the truth, I didn't pay any attention to what his conversation was with Dodo Fitzsimmons. Margie may have, but I wasn't.

Q You reached King's flat at what time? A Must have been about two or half past.

Q You four people went in and also Fitzsimmons and the King? A Yes, sir.

Q How long did Fitzsimmons and the King remain there? A About ten minutes.

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Q Now, did you sit up at all, or did you go to bed immediately? A Sat up.

Q How long did you sit up? A A good while, I don't remember how long.

Q You seem to have a most retentive memory on most things--- can you tell me how long?

THE COURT: Mr. Colligan, that is for the jury to say, as to her memory---you may put the question.

BY MR. COLLIGAN:

Q To the best of your recollection, how long did you sit up? A I should say it was almost two hours.

Q About two hours, what did you do during those two hours? A We were speaking and discussing the matter about the murder.

Q What? A We were discussing the matter about the murder.

Q The entire two hours? A Yes.

Q What else was said about the murder? A Madlen told Margie and I he wanted us to stick to him, and that he knew that he would be picked up on suspicion, but nobody else would know anything else about the others, if Margie and I did not open up our mouths, because he was going to---

Q Tell us all the conversation that occurred in which the defendant participated. A He also said he did not want any woman in his troubles, because he knew what they were, and then he discussed the matter with Margie and asked her whether she

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was positive there was three people going into the saloon, or five.

BY MR. COLLIGAN:

Q What was that? A Whether there was three and not five going into the saloon, and Margie said there was only three, and so he told Margie that if she stuck to the statement that she did not see anybody as she sticks to the fact there was three, why everything would be all right.

Q What did Margie say so far as you can recollect, with reference to the murder? A Margie and I both took an oath we were going to stick to Owney Madden.

Q Is that all you took that night? A Yes.

Q How many drinks did you take? A I don't know.

Q Were you so intoxicated that you could not tell? A No, but I did not keep track of the drinks.

Q Did they come in very swiftly? A Yes, sir.

Q There was whiskey and brandy and wine there? A Yes, sir.

Q Bottle and bottle? A Yes, sir.

Q So that part of the two hours was consumed by drinking liquor? A While we were drinking we were talking too.

Q Both at the same time. A Yes.

Q And you were somewhat intoxicated, were you not, by the time you went to bed? A I admit that.

Q What? A I admit I was intoxicated.

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Q Still you have a very vivid recollection, have you not, of everything that occurred? A Yes.

Q What time did you get up next day? A In the afternoon.

Q You went to a dance? A Yes.

Q With whom? A Margie.

Q What time did you return from the dance? A We left the dance about six o'clock and Margie and I walked along Third Avenue until eight and then we went down to Tammany Hall.

Q Had it been arranged that you were to meet somebody at the dance? A Yes.

Q When was that arrangement made? A In the King's flat, some time on Sunday morning or Sunday afternoon, when we got up.

Q What arrangement was made? A I asked Owney Madden if he was going to Tammany Hall that night, Sunday night, and he said that yes, he might go. If he was there or any of the other boys were there we were not to give them a tumble, in case the cops should be there.

Q He did not suggest it to you the night before, when you went to a dance? A No, sir.

Q But the next day he suggested it? A Yes.

Q You thought a great deal of Madden? A Yes.

Q But still you went to a public dance? A Yes, sir.

Q You knew he had told you about keeping quiet---now, is it not the truth that he did tell you that? A Yes, he wanted us to stay in the King's flat and lay low and Margie and I both

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refused---we would not be housed in.

Q And still you thought a great deal of Madden? A Yes, sir.

Q He did not tell you he was going to lay low? A No, because he knew he was going to be picked up on suspicion.

Q He knew that? A That was what he said, he knew it.

Q So he did not attempt to hide at all? A No. He even passed the remark that if he did not come over to the restaurant, that surely would look suspicious, and so he was going to come over to the restaurant. That was Sunday when he passed that remark.

Q When first did you tell this story; when did you tell for the first time all these things concerning Madden, in relation to the conversations he had with you? A The Saturday before Easter.

Q That was in what month? A April.

Q That was after the McArdle trial? A Yes.

Q Up to the time McArdle was tried, you never told any one in the District Attorney's office anything relative to an admission by Madden to you? A No.

Q That is the truth, isn't it? A Positive.

Q You knew Madden had been indicted? A Yes.

Q You knew that McArdle was going to trial, and still, during all that time you never told anything; now, will you kindly tell us what induced you to tell what you have now told? A I

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can tell that, because I wanted to receive Holy Communion on Easter Sunday morning, and I could not do that before I cleared myself and my conscience.

Q Cleared yourself of what? A Of everything I knew about this trial.

Q When, for the first time did you tell the District Attorney about Bieler---as a matter of fact you know immediately after the murder you mentioned Bieler's name, didn't you? A Yes, sir.

Q You know immediately after the murder you mentioned Mulhall's name? A Yes.

Q You know immediately after the murder you mentioned McArdle's name? A Yes.

Q And you told everything you knew about those three men, did you not? A Everything I could think of.

Q Everything you could think of, and suddenly, after Bieler pleaded guilty to Manslaughter and McArdle was convicted of manslaughter, something happened, and that something was that you told this story that you now tell to-day, you told that to the District Attorney after the McArdle trial?

MR. EDWARDS: I don't think the witness understands that question.

THE COURT: Is that a true statement counsel has just made?

THE WITNESS: The way I figured it, your Honor, was that I was not asked about Owen Madden, and knew it was Bieler and Mc-

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Arile they were going to try, and I told what I knew about them, leaving Owney Madden out of it.

BY MR. COLLIGAN:

Q Did you expect Owney Madden was not going to trial? A No, but, I knew he was going later on.

Q Did the District Attorney tell you Owney Madden was going to trial? A Yes.

Q When? A He said he expected the whole three to be tried one after another.

Q When did he tell you that? A I don't remember that, but when I gave my statements about Hoppe and Arthur Bieler.

Q That was immediately after the murder? A I can't say it was immediately after the murder, no.

Q But it was soon after, and at that time you told him all you knew about Madden? A I told them all I knew about Madden?

Q Yes? A No, I did not tell them all I knew about Madden until Easter Saturday.

Q And you have given us the reason? A Yes.

Q You were willing to tell all about Mulhall and all about McArlie and all about Bieler, and you were not willing to tell all about Madden? A I was not willing.

BY THE COURT:

Q Have you ever slept with either of these other men? A No, sir.

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Q Neither McArdle, Bieler or Mulhall? A No.

BY MR. COLLIGAN:

Q Now, you were at the dance in Tammany Hall? A Yes.

Q You got back to the flat? A Yes.

Q You had a great deal of drink and you stated you heard some conversation between the men while you were in bed, is that correct? A Yes.

Q Who were the men? A Owney Lawlor, Owney Madden and Arthur Bieler.

Q That was on Sunday morning? A Yes.

Q How long did you sleep after getting to bed in that intoxicated condition? A I don't believe I did sleep.

Q Your memory is quite good? A Yes.

Q Don't you recollect whether or not you slept? A If I did sleep I just dozed off, because Bieler came right in after we went to bed---almost you might say right in.

Q You had some conversation with Margie, do you recollect that?

MR. EDWARDS: Can we have the time fixed?

THE COURT: Yes.

MR. COLLIGAN: Any time that evening, in the King's flat?

MR. EDWARDS: Before or after they went to bed?

BY THE COURT:

Q Did you have any talk with Margie in the King's flat there, just with her and not with the men? A No.

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BY MR. COLLIGAN:

Q You have stated that Madden told you that you should not tell Margie about his going up to the place of the shooting, you have stated that? A Yes.

Q That you should not tell Margie? A That I should not tell Margie what he told me.

Q You are positive of that? A Yes.

Q Did you understand at the time that Margie knew nothing about his going up to the place? A I did not think she knew anything about it.

Q Have you told us substantially everything you know about it? A Yes.

Q How did you get hold of that ring? A I asked Owney Madden for it.

Q Is it not a fact that in the King's apartment, Madden, while washing himself, left the ring aside? A No, sir.

Q You are positive of that? A Positive.

Q And he asked you about that ring subsequently, he asked you for it? A Yes, sir.

Q He did not give it to you at all? A He gave it to me, and after Jimmie O'Connor spoke about the telephone message, he said he would like to have the ring back, because it would only cause trouble.

Q Are you positive of that? A Positive.

Q When did you first mention that? A When I made my state-

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ment.

Q To whom? A To Mr. Edwards.

Q Who? A District Attorney Edwards.

Q After the McArdle trial? A Yes.

Q Don't you remember that Madden cut his nose with the ring and took it off to wash it---to wash his nose---A No, sir.

Q How many times have you been convicted? A I don't understand you.

Q How many times have you been sent away by the authorities?

A Once.

Q When was that? A In 1911.

Q What was the charge? A Incurrigibility.

Q What was that? A Incurrigibility.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q Who sent you away as incorrigible? A My mother.

Q How old were you then? A Fourteen.

Q That was not a conviction of anything? A Well, he may call it that but I did not know what he meant when I answered it.

Q Your mother sent you away because---A I would not do as she told me to.

Q You stated in your cross examination that you and Margie both took an oath to Madden that you would stick by him and not tell what you knew, and you stuck to that a long time? A Four months.

Q Until Easter? A Easter Saturday.

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Q Saturday before Easter---at the time of the McArdle trial, as a matter of fact even then you never told that you saw John McArdle in the restaurant, did you? A No, sir.

Q And on that trial you were not asked anything about Owen Madden? A I was asked but the lawyer said he did not approve of it, that it was not anything for the defendant, and it should not be brought up and it was crossed out.

Q You were not permitted to give any answers about Owen Madden? A No.

Q And it was not until Saturday before Easter that you decided to tell what you knew about Owen Madden? A Yes, sir.

Q Be good enough to tell this jury why you held back what you knew about Owney Madden, and told what you knew about Arthur Bieler?

MR. COLLIGAN: I object.

THE COURT: She has given her reason for speaking, but I do not think she has given her reason for holding it back.

MR. EDWARDS: That was my impression.

THE COURT: Why did you keep it so long? A Because I thought a great deal of Owney Madden.

BY MR. COLLIGAN:

Q What? A Because I thought a great deal of Owney Madden.

BY MR. EDWARDS:

Q When you finally did tell what you have told, you told it

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unwillingly? A Yes, sir.

Q What did you have to drink in the King's flat, you and Margery? A I know there was Blackberry brandy.

Q Was there anything else? A That is all we drank---there were other bottles there of wine and whiskey, but we did not touch none of that. We drank blackberry brandy.

MR. COLLIGAN: But you got drunk?

MR. EDWARDS: Is it necessary to make a comment of that kind?

THE COURT: No. She has already testified---

MR. EDWARDS: Is it necessary to comment upon it at this time?

BY MR. EDWARDS:

Q Did you ask the defendant at any time whether he went to this dance at Moose Head Inn that Saturday night? A Yes, sir.

Q What did he tell you about that? A He said he was there.

Q You stated that you knew of no trouble between Patsy and the defendant, except what Patsy told you. Had Patsy ever spoken to you about anything May O'Donnell told him? A Yes.

Q Did he ever tell you what that was? A Yes.

Q Tell us what Patsy told you May O'Donnell told him?

MR. COLLIGAN: I object.

THE COURT: Does it appear here that the defendant had directed May O'Donnell to tell him?

MR. EDWARDS: Yes.

THE COURT: I do not see that it is material. The material

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point is the sending of the message. I do not know whether it is material whether it was delivered or not. I will sustain the objection.

MR. EDWARDS: It seems to me that under all the circumstances here that it is material as throwing light on the circumstances which grew into this particular fight, and as showing what motive there was for Doyle going and arming himself after this telephone conversation.

THE COURT: It is a piece of double hearsay---that is the trouble. It appears it was reported to the defendant that that message had been delivered.

MR. EDWARDS: And it appears that he admits that he sent it. Now, it seems to me that we are entitled to further and show that the person to whom it was sent stated that he did receive it. That is the message which it is the People's contention is the motive for this particular act.

THE COURT: I will admit it.

Exception.

BY MR. EDWARDS:

Q Tell us what Patsy Doyle said to you? A That Owney Madden passed the remark that he was going to leave Patsy got out of this "T" case so that he could hand it to him.

Q When Margie called you up on the telephone from Nash's, did she make any report to you that she had been hit by Willie Vott? A No.

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Q Did she call you simply to put you on the telephone with Patsy about this letter which is People's Exhibit 11 for identification? A Yes.

MR. EDWARDS: I offer People's Exhibit 11, the letter, in evidence.

MR. COLLIGAN: I object.

THE COURT: What is the letter?

MR. EDWARDS: This is a letter written by this witness and given to Margie Everdeene to deliver to Patsy Doyle on the evening of the 28th of November, 1914, which letter she says formed the topic of conversation between herself and Patsy Doyle over the telephone that evening, and if you remember, Margie Everdeene testified that she delivered it to Doyle.

THE COURT: I recall no evidence that that letter was delivered as the result of instructions by the defendant.

MR. EDWARDS: No, it was delivered by Margie Everdeene at the request of this witness, to Doyle, that evening.

THE COURT: I sustain the objection.

BY MR. EDWARDS:

Q Now, you told counsel for the defendant, on cross examination, that you lied on the McArdle trial, as I understood it, when you said he was not in the restaurant, can you tell us why you did that? A When I had the conversation over the telephone with Patsy, I used some pretty bad language---

Q I want to know why you did not tell us that which you

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x tell us to-day on this trial, that McArdle was in the restaurant, why you said he was not in it? A It did not really come to my mind at the time I was saying it.

Q You did not remember it? A No.

Q Do you know where the Hayward Club is? A No, I don't know, but I think it is in 31st Street.

Q Anywhere near the restaurant? A Yes, sir; I think it is around the corner.

(The Court admonishes the jury in accordance with Section 415 of the Code of Criminal Procedure, and takes a recess until two o'clock).

A F T E R      R E C E S S .

Trial resumed:

L O U I S      F L O S B E R G , called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 613 East 138th Street).

DIRECT EXAMINATION BY MR. EDWARDS:

Q What is your business? A Newsstand, paper man.

Q Where is your place of business? A I gave up my place of business now.

Q Where was it? A 41st Street and 8th Avenue.

Q Right on the corner? A Yes.

Q Outside of Nash's saloon? A Yes.

Q Was that your stand or---A My stand.

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Q Who was with you there? A Nobody with me that night there.

Q Nobody was with you that night, but who owned the stand with you? A My brother was partner with me.

Q Where was that stand located? A The southeast corner.

Q Right outside the saloon? A Yes, sir.

Q Do you know where the corner doors are that come around in a circle? A Yes.

Q Your stand was right on the circle? A Yes.

Q Here is the diagram of Nash's saloon, or Othner's saloon, and here are the doors on the circle, on the corner, where was your stand? A Right here, right on this circle (Indicating).

Q Right on the edge of the circle, on the sidewalk? A Yes.

Q Do you remember the night Doyle was shot in that place? A Yes.

Q Did you know him by sight? A Yes, I knew him by sight just a couple of months.

Q You knew him as coming in the saloon often? A Yes, sir.

Q Where were you sitting that evening? A Right here. (Indicating).

Q That is just to the south of the door that enters the saloon on the corner from 8th Avenue? A Yes.

Q What happened there that evening that attracted your

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attention? A I heard shooting there, that is all.

Q Anything else? A I jumped on the box and saw---

Q You were on a box? A Yes---I jumped on top of the box and saw Patsy running---

Q What did you see? A I jumped on the box and saw Patsy run up the stairs that go in the hall.

Q When you jumped on the box, how were you able to see him?  
A The panel was broke right in front.

Q When was that broken? A At the time of the shooting.

Q Where did you see Patsy go? A Going right straight up these little stairs inside the saloon.

Q Those stairs (Indicating)---are those the stairs you refer to? Where do they lead to? A Right in the vestibule that goes up stairs.

Q What vestibule? A Inside---that led up to the vestibule? K

Q The vestibule of what building? A Going up into the house, into the rooms.

Q The same building the saloon is in? A Yes, sir.

Q Those are the stairs that appear on this diagram in the northwest corner of the saloon? A Yes.

Q Going right up there in the vestibule? A Yes.

Q Was there anybody with ~~them~~ at that time? A No, I didn't see nobody.

Q Can you give us any idea how many shots you heard fired?

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A I heard about four or five. That was what I heard.

Q Did they all come together, or were they separated?

A Came together.

Q What did you do then? A When I wanted to go inside a crowd came around there and I could not get inside and look at it. I had to watch my stand on the corner.

Q Did you see a police officer that evening? A Yes; in a second a police officer came in there.

Q Did you say anything to him? A No---after he came out I told him what I know now.

Q After he came out of the saloon? A Yes.

Q You told him what? A I told him I saw Patsy run up the stairs.

Q Into this vestibule? A Yes.

CROSS EXAMINATION BY MR. COLLIGAN:

Q It was just a second after the shots were fired that a policeman arrived there? A Yes.

Q Is that so? A Yes.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q How long after the shots did you see the police officer?

A A half a minute, as soon as I turned around I saw the police officer in there.

Q He came very quickly? A Yes.

THE PEOPLE REST.

MR. COLLIGAN: I move that the jury be directed to acquit

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upon the ground that the evidence is insufficient to justify a verdict of guilty beyond a reasonable doubt.

Motion denied. Exception.

---oooOooo---

MR. COLLIGAN'S OPENING ADDRESS TO THE JURY IN BEHALF OF THE DEFENSE.

If your Honor please, Mr. Foreman and Gentlemen of the Jury:

It has always been my practice both as prosecuting officer, and as counsel for a defendant, to try to be as careful as possible in outlining a case, not going into details, but allowing the details to be brought out before the jury, because I do not believe in repetition.

I shall endeavor to outline very briefly, in a general way, the defendant's contention in this case.

As Mr. Edwards, in his opening statement said, most of the parties concerned bear questionable reputations. Who Madden is or what he is or what he has been I leave that to you. He is, I believe, about twenty two years of age. He may be in the vicinity of twenty-three. He married at an early age, and, as most young men do, especially in that part of the City, married on nothing. He is not strong. He has been in the hospital quite a great deal. He had a wife, and I believe two children. I have seen one of them. I believe he has two little children.

Perhaps two or three days before the murder he left his wife on the most agreeable terms, so far as I know, and went to

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live with his married sister, whose name is Mrs. John Marron. With that family lived a young man whose name is O'Neil. On the Friday proceeding the shooting, Madden was out all night with Owen Lawlor. Prior to that and on the same day I believe he visited the rooms where they roomed together on 43rd Street, but later, after leaving the girls, he went out with Lawlor. Where they went both of them will tell you. That night he was away. In the morning, in the vicinity of nine or ten o'clock, he arrived at the home of his sister, where all his belongings were, and went to bed. He was there during the entire day. O'Neil, who was a hardworking young man, and who lived in the same house, was through work at six o'clock.

After finishing his work, O'Neil came home and found Madden there. His married sister was there all day. Madden had been sleeping, after being up all night. They had dinner in the vicinity of seven o'clock. It was Saturday evening. Both the young men started out of that house in the vicinity of seven thirty.

O'Neil, as most young hard working fellows do, goes out to take in a show that night. Where it was I know not. They separated. Madden went to the barber shop and arrived at the barber shop very shortly after leaving home. I believe that barber shop has four chairs. It was Saturday evening. All the barbers were working and the place was quite busy, as will be testified to by the men who worked there, and the man who worked on Madden,

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who was a new man, a young man, practically an apprentice, will tell you that Madden was there, that he worked on him during those hours. He will tell you what work he did, that he shaved him and cut his hair.

He will tell you that Madden was obliged to wait his turn and he will tell you how long he remained in that place during that evening.

Another witness, absolutely disconnected with Madden or any of his friends will testify that he was in that barber shop during those hours, and will tell you why he knows the time of his arrival in the barber shop and will tell you that Madden was there at that time.

We will produce witnesses to show, who were in the restaurant at 33rd Street and 10th Avenue at Margie's arrival---we will produce witnesses to show that that was in the vicinity of seven o'clock.

Those witnesses will testify that Madden was not in that restaurant, and that no note of any character was shown him. We will produce witnesses to show, who were in the restaurant at the time Freddie came, which she states was about eight o'clock.

Those witnesses will tell you that Madden was not in that restaurant, and had no conversation with Freddie on that occasion or at that time.

We will show you that Madden did not attempt to keep the girls under cover, did not attempt to hide himself.

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We will show you from the testimony of the man who did the shooting himself, that Madden had no connection with that shooting, that it was done on the inspiration of the moment, and he will tell you why it was done.

We will produce to you the girl who lived with Patsy Doyle, the girl who thought Patsy Doyle was going to marry her, a girl who thought the world of him, and knew nothing about the things he had been hiding. That girl is the May O'Donnell you have heard so much about. May O'Donnell, who is supposed to have told Patsy Doyle---or, supposed to have told or sent word to the Italian fellow Romanello, who had preferred charges against Doyle, after Doyle had nearly cut him to pieces, to look out, to not prosecute Doyle, to let Doyle alone, that her Madden, would take care of Doyle.

Miss O'Donnell will go on the witness stand and testify that even up to the very hour of his death, Doyle's death, she lived with him. She was in bed with him the entire day, and he went out shortly before he was killed, and he left his laundry there in that room, and she came down with the laundry and was passing 41st Street and 8th Avenue when she ascertained the fact that a murder had taken place.

We will show you, now that it has been introduced, that there was no motive for Madden to kill or have some one else kill Doyle. We will show you that there was absolutely no motive for Madden to send word to Romanello to pull off and leave

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Doyle to him, and the witnesses that I am going to produce are not Madden's friends---are not Madden's associates---they are the friends of Doyle, and one man who is the president of the Brighton Club, the Brighton Social Club, to which Mott and Keith belonged, and Doyle visited---he, the president of that club, a hard working young boy, as you will see when you see him on the witness stand, will testify that he is the McClusky that the sailor talked about; he is the McClusky that the sailor referred to. He knew the sailor, and he, McClusky, will go on that stand and testify that he did not know Madden, does not know Madden and would not know Madden if he saw him in this Court Room today, and he never on any occasion, whether it was in Cunningham's Hall or any other hall, pointed out Owney Madden to his friend the sailor.

And, in conjunction with that we will produce further testimony and tell you why it was that Romanello and other people in the club, at the instigation of Mott and his friends---why Romanello did not testify against Doyle, so that there was no motive for Madden to kill Doyle or send somebody out to kill Doyle.

There was no motive so far as any woman was concerned and there was no motive so far as any man was concerned. I think it is unnecessary for me to go into the details. The witnesses themselves will be produced on the witness stand and perhaps by that time, when the evidence is all in, you will know just what

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that real situation is, if you have not yet made up your mind, after that exhibition you have seen on the witness stand yesterday and to-day.

---oooOooo---

M A R Y M A R R O N , called as a witness in behalf of the defense, being duly sworn and examined, testified as follows:

(Residence, 436 West 35th Street).

DIRECT EXAMINATION BY MR. COLLIGAN:

Q How old are you? A Twenty one.

Q How long have you been married? A Going on five years.

Q You are a sister of the defendant, Owen Madden? A Yes, sir.

Q How many children have you? A One.

Q Your brother is married, is he not? A Yes.

Q How many children has he? A One.

Q One child? A Yes.

Q Do you recollect the night of November 28th, 1914, the night a murder took place in the vicinity in which you live? A Yes, I do.

Q At that time who was living with you? A My mother and brother and cousin and myself and my husband.

Q Who was the cousin? A Thomas O'Neil.

Q Is he living with you still? A Yes.

Q Where does he work? A Mark Cross & Company, Fifth Avenue.

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Q What does he do for them? A He is a packer.

Q How long had your brother, the defendant, been living with you? A He had been living with us since last July.

Q And at that time, so far as you know, he had an agreement with his wife? A Yes, he was out of work and---

Q He had been in the hospital? A Yes.

Q And was out of work? A Yes, sir.

Q And lived with you and the rest of the people? A Yes, sir.

Q Do you recollect that the shooting occurred on Saturday evening? A Yes.

Q Will you state whether or not your brother was home all the night before? A Well, he came in that Saturday morning about nine o'clock.

Q Nine o'clock Saturday morning? A Yes, and he slept all day until half past six in the evening.

Q Was O'Neil home that day? A O'Neil, no, he works in the day.

Q What time does O'Neil generally get home? A He comes home at six o'clock.

Q Did he get home around that time on that Saturday? A Yes, sir.

Q What time did your brother get up? A He got up around half past six, going to have supper---we have supper at seven.

Q You have supper at seven o'clock? A Yes, sir.

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Q What did the boys do after supper? A Well, they sat around for awhile reading the paper and then they went out.

Q They went out? A Yes.

Q You did not see your brother Owen again that night? A No, sir; I did not see him until the next evening.

BY THE COURT.

Q Did not see him when? A Until the next evening, did not see him.

Q Sunday evening? A Yes, sir; Sunday evening.

CROSS EXAMINATION BY MR. EDWARDS:

Q How long had your brother been living with you at that time? A How long?

Q Yes? A He has been living with us since July.

Q Is it his custom to be out all night frequently? A No, sir.

Q He was away all night this Friday night, wasn't he? A Yes, he was.

Q He was out all night Saturday night, wasn't he? A Yes, sir.

Q Was that anything unusual? A Well, very seldom he does stay out.

Q He was out two nights, one right after another that week, all night long? A Yes.

Q Did he sleep at home Sunday night? A Sunday night?

Q The next night, after he came home in the evening? A No,

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sir.

Q He was out that night all night also? A Yes, sir.

Q Wasn't he? A Yes, sir.

Q Did you see him on Monday? A Yes, Monday I saw him.

Q Where did you see him then? A At supper time.

Q Did you see him again that night? A No, sir; he got arrested.

Q He was arrested that night? A Yes.

Q So he was out all night Friday night, all night Saturday night and all night Sunday night, is that right? A Yes.

Q How long had he been living with you? A Been living with us since July.

Q That was about five months, is that right? A Yes, sir.

Q Where was he before he came to live with you, where was he living? A He was living with his wife and under the doctor's care. He had a sore arm, a blood poisoned arm.

Q Was that a gunshot wound in the arm? A No.

Q Which arm was it? A I cannot remember which arm it was.

Q Cannot you remember which arm it was? A No.

Q What hospital was he taken that time? A Bellevue.

Q Was not that a gunshot wound of the arm from which blood-poisoning set in? A No.

Q How long had he been out of the hospital when he went in that time? A What time do you mean?

Q This time he went in with his arm? A How long had he

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been in there?

Q How long had he been out? A I guess he was in there about five weeks. That was July he went in there.

Q Had he ever been in the hospital before that? A Yes, sir.

Q When was the last time before that? A I guess it must have been about a year and a half.

Q And what hospital was that at that time? A Flower Hospital.

Q What was the matter with him that time? A He had a gun wound here (Indicating).

Q He had some gunshot wounds of the stomach? A Yes, sir.

Q And had an operation on them? A Yes, sir.

Q How many other times has he been in the hospital for gunshot wounds? A He was in twice, but not gunshot wounds---

MR. COLLIGAN: I object to this. I think it tends to prejudice the jury.

THE COURT: I sustain the objection.

BY MR. EDWARDS:

Q How long since he lived with his wife? A Since July.

Q Last July? A Yes.

Q Did he come right away and live with you then? A Yes, sir.

Q Did you say your husband worked for Cross? A No, sir;

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that was my cousin.

Q What does your husband work at? A In a slaughter house.

Q Where? A 40th Street.

Q How long has he been working there? A Nine years.

MR. COLLIGAN: I object to this line of testimony as to what her husband does.

Objection overruled. Exception.

BY MR. EDWARDS:

Q Steadily for nine years? A Yes.

Q Lost no time at all? A No.

Q Sure of that? A Yes---he was away once.

Q Where? A He was away in the penitentiary.

Q How long ago was that? A A year ago.

Q What is your husband's name? A John Marron.

RE-BIRKET BY THE COURT:

Q Was this defeniant employed or working anywhere when he lived with you? A No, he was sickly.

Q What? A He was sickly, he could not work.

BY MR. EDWARDS

Q He did not work, at any rate, for the five months he lived with you? A No, he could not.

Q How long before that was it since he had been working, to your knowledge? A He worked for Joe Reilly off and on.

Q For who? A Joe Reilly.

Q How long since he worked steadily for anybody? A That

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I don't remember.

Q So long ago you can't remember? A It is not that, but I don't just remember.

RE-DIRECT EXAMINATION BY MR. COLLIGAN:

Q He was not living with you except July until--- A Yes, that is all.

Q Your husband was away for how long? A He was away for ten months.

Q When did he come home? A He came home in February.

Q So ~~was~~ that at the time Madden was living with you that your husband was not at home? A No, he was not at home.

V I T O F A S E N E L L A, called as a witness in behalf of the defense, being duly sworn and examined, testified as follows:

(Residence 415 Tenth Avenue).

DIRECT EXAMINATION BY MR. COLLIGAN:

Q You work as a barber? A Yes.

Q Where? A 415 Tenth Avenue.

Q Are you the owner of the place? A No, a brother.

Q Do you recollect the night of the shooting of Patsy Doyle?

A Yes.

Q It was a Saturday night? A Yes.

Q You worked at your place of business on that night? A Yes, sir.

Q How many other workmen were employed there on that evening?

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A Well, the boss, another boy and a little boy.

Q How many in all, four? A Four.

Q Do you recollect seeing the defendant Owen Madden in that place of business on that night? A Yes.

Q To the best of your recollection, what time did he come in to your place of business? A Well, it must have been between half past seven and eight o'clock in the evening.

Q Do you know how long he remained there? A No, sir.

Q You don't remember that? A No, I don't remember that.

Q But you know he was in there? A Yes.

Q Was he shaved or did he receive a hair cut? A He got a hair cut and a shave.

Q By whom? A By the other barber.

Q What is the other barber's name? A Anthony Massari.

Q How do you spell it? A M-a-a-s-s-a-r-i.

Q Do you recollect how many people were in there about the time that Madden came in? A Well, about two of us working when he came in, the boss and I, I guess.

Q The boss and you were working? A Yes.

Q Who worked on Madden? A The other boy, Massari.

Q Was he one of the new men? A He worked there right along, he is our nephew and he works there right along.

Q How long had he been working there? A He is there with us for the last five years.

Q He worked on Madden? A Yes.

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Q Do you recollect a man by the name of Mr. Thomas coming in there that night? A Thomas?

Q Mr. Thomas? A Ligorano.

Q Do you know how to spell that name? A Well, I give it my best, in Italian---an Italian name, give it my best way, L-i-g-o-r-a-n-o.

Q You don't know what time Madden went out there? A No, sir.

CROSS EXAMINATION BY MR. EDWARDS:

Q Is Ligorano's name Thomas? A I know him by Ligorano.

Q When Mr. Colligan asked you if you knew a Mr. Thomas, who came in there what suggested Ligorano to you? A Because he was a man that came in at that time.

Q Was he the only man that came in at that time? A Yes, sir.

Q The only man? A At that time.

Q You were not very busy then, were you? A No, sir.

Q When Madden came in there was a vacant chair? A Yes, sir.

Q And he got waited on right away? A Yes, sir.

Q And what Saturday was this? A It was Saturday following the holiday we had in November, Thanksgiving Day.

Q What makes you remember particularly that Madden was in there that night? A That was his last hair out and shave he got before he got arrested.

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Q What makes you sure it was that Saturday and not the Saturday before? A Well, I have explained it already, because it was the Saturday after the holiday.

Q Who was it first asked you if you remembered whether Madden was in there that day? A I did not hear that.

Q Who was it first asked you if you remembered Madden coming in there that evening? A Who asked me?

Q Yes, who was the first person spoke to you about it? A What do you mean, the first person spoke to me about it?

Q After Madden's arrest, who was the first person that came to you and asked you if you remembered Madden coming in there?

A Well, I just by reading in the papers.

Q Who was the first person spoke to you about it? A I don't know what you mean by the first person. Nobody ever spoke to me, I don't think.

Q Nobody ever spoke to you about it?

MR. COLLIGAN: I don't think he realizes what you mean.

MR. EDWARDS: I am trying to speak plainly.

BY MR. EDWARDS:

Q What I want to find out is who came to you first and asked you if you remembered Madden coming in there to your place on that Saturday night? A Counselor, the counselor came over there and asked me.

Q Was that the first man? A No, not the first one.

Q Who was the first one? A Gossiping around there, people

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talking about it---I don't exactly remember who came and told me about it, because ~~he~~ I was right next door.

Q Did they speak of Madden in connection with it? A About committing the murder?

Q Did they speak about Madden's name in connection with it? A Yes.

Q Many people spoke about it? A No doubt they did, because it is in a business place.

Q Please tell me whether they did or not? A Yes, they did.

Q Who spoke to you about it, for instance, give me some of their names? A I read it in the newspapers in the morning.

Q Who came in your place of business and spoke about Madden in connection with this murder? A That I don't exactly remember.

Q Can't remember that? A No.

Q You remember Ligorano came in Saturday afternoon? A Yes, sir.

Q Can't you remember who spoke about Madden? A No.

Q How long have you known Madden? A A little over two years.

Q Do you know any of his friends? A No, sir;---that is, I know them by sight.

Q A great many come into your barber shop? A Come in to get shaved.

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Q You know them just as you know Madden, from getting shaved? A Yes, sir.

Q Were there any of his friends in there that Saturday night? A No, not that I know of.

Q You were there all the evening? A Yes, but I don't know if any of his friends were there.

Q Do you know anybody else that you saw there that night getting shaved? A After Madden, the same night?

Q Before or after? A Yes, sir; one old man.

Q Only one old man, is that all---what is his name? A Mike Kenney.

Q Is that the only man you can remember? A The only man I can remember.

Q Did he speak about Madden to you? A No.

Q You did not shave Madden? A No.

Q What was it about Madden coming in there that especially impressed it upon your mind? A Well, it was reading in the papers about the shooting affair.

Q That you did not read until when? A I read on Sunday morning.

Q Madden had not been arrested charged with it then? A Been arrested then?

Q Yes? A No, sir.

Q No one had mentioned his name in connection with the murder then? A No.

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Q How did that come to remind you that Madden was in there? A I did not say Madden reminded me. I only remembered about the shooting.

Q I asked you what it was impressed it upon your mind that Madden was in there that particular evening? A It did not impress me on my mind.

Q It did not? A No.

Q You remembered? A Yes, sir; but no impression was upon my mind about Madden.

Q When did it first occur to you it was important that Madden was in there that evening? A Probably on Tuesday.

Q That was after his arrest? A Yes.

Q When did you hear of his arrest? A The same night.

Q The same night he was arrested? A Yes.

Q You know the restaurant on the corner? A Yes, I know the restaurant.

Q The American Lunch? A Yes.

Q How far from that is your barber shop? A There is another little store between us.

Q What time was it that you think Madden came in there that evening? A About between half past seven and eight, I can recollect.

Q Can you recollect whether it was near half past seven or near eight? A No, I cannot very well say.

Q But it was somewhere between those hours? A Yes, sir.

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Q It takes about how long to shave a man and cut his hair?

A That depends,---hard thing to say.

Q You were in there when he was there? A Yes.

Q How long did it take to cut his hair and shave him that evening? A I couldn't very well tell you that.

Q Couldn't tell us that? A No.

Q Why not? A It depends upon the barber and what kind of hair.

Q This was a man who was working for you for five or six years and this man Madden was a regular customer? A Yes, sir.

Q Cannot you tell me how long it took to shave and cut his hair? A I cannot very well say.

Q It wouldn't take over ten or fifteen minutes? A Might take over an hour.

Q Over an hour? A Yes.

RE-DIRECT EXAMINATION BY MR. COLLIGAN:

Q Do you recollect seeing Logorano in there that night?

A Yes.

Q Why did you tell the District Attorney that another man was the last man to come in there after Madden was shaved---did you say that? A What man?

Q How many men came in there to the best of your recollection, after Madden was already there? A After Madden, to my best recollection, a man by the name of Mike Kenny and then Logorano.

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Q You are sure Ligorano was there? A Yes.

RE-CROSS EXAMINATION BY MR. EDWARDS:

Q How long have you known Wadden? A A little over two years.

Q What is your brother's name? A The one who runs the shop?

Q Yes? A His name goes under Frank Fasanella Barber shop, but his name is Cannio.

Q His name is Fasanella? A Yes, sir.

Q What is his first name? A Cannio, but it is on the shop Frank Fasanella's barber shop.

Q Your first name is what? A Vito.

Q Any more brothers? A Yes.

Q How many? A I have got four more besides that one.

Q What are their names? A One is Anthony, one is Daniel, one Joseph and one is Aphonse.

Q Dan is quite a close friend of Wadden? A I don't know.

Q Don't you know they go around together to dances? A No, sir.

Q You don't know that? A No.

Q Sure? A Yes.

ANTHONY JOSEPH MASSARI, called as a witness in behalf of the defendant, being duly sworn and examined, testified as follows:

(Residence 502 West 34th Street.)

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## DIRECT EXAMINATION BY MR. COLLIGAN:

Q Where is your place of business? A 415 Tenth Avenue.

Q You are a barber? A Yes.

Q Do you recollect the night of the shooting of Patsy Doyle?

A Yes.

Q Do you remember that that was Saturday night? A Yes.

Q Did you hear about it next day or when? A I think it was Monday I heard about it.

Q You heard about it Monday? A yes, I think so.

Q Were you working on that Saturday night? A Yes.

Q Do you know the defendant, Owney Madden? A yes, sir.

Q How long have you known him? A About two or three  
years.

Q Was he in the barber shop that night? A Yes, sir.

Q Did you work upon him? A Yes.

Q What did you do? A I gave him a hair cut and shave.

Q How long were you working upon him? A Well, about an  
hour and twenty minutes.

Q Did he remain in the barber shop afterwards or go right  
out? A yes, sir; he remained in the barber shop.

Q Do you recollect what time he came in the barber shop?

A Well, I don't remember the right time, but---

Q If you don't don't say so? A No, sir.

Q You don't remember what time he came in? A No.

Q Do you know Ligorano? A yes.

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Q Was he in the barber shop that night? A Yes.

Q Do you recollect whether he came in before or after Madden?

A He came in after Madden.

Q You don't know just what time? A No, sir.

CROSS EXAMINATION BY MR. EDWARDS:

Q How long have you been a barber? A About---started in as an apprentice about seven years ago.

Q How long did you work in this particular shop? A Worked in there since I started in as an apprentice.

Q Seven years? A Yes.

Q What relation are you to the brothers who keep the shop?

A I am their nephew?

Q How many men are employed there? A The boss and his brother and myself and a little cousin of mine.

Q What does the little cousin do? A He is an apprentice there now.

Q You have been shaving and cutting hair for seven years?

A yes.

Q And it takes you an hour and a half to cut a man's hair and shave him? A I did not say it took an hour and a half.

Q How long did you say? A I said it took about an hour and twenty minutes.

Q It takes you an hour and twenty minutes, that is eighty minutes, to cut hair and shave? A Yes, sir.

Q Is that the regular time you take? A With certain hair

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cuts, usually.

Q That is the length of time you took that night? A Yes, sir.

Q How do you come to remember just how long it took you to cut Vadden's hair that night? A Well, his hair was kind of hard to cut and so I took my pains about cutting it.

Q Is that the only time you ever cut it? A I don't remember any other time.

Q Cannot you tell me the last time before that that he came in and you cut it? A No, I don't remember.

Q But you are perfectly sure of that particular night, are you? A Yes.

Q Can you tell me what makes you so sure of that night?  
A What do you mean?

Q What makes you sure that Vadden came in there on that particular Saturday night? A Well, the next Monday I heard about that murder.

Q Didn't you hear about the murder before Monday? A I don't remember.

Q Didn't you read about it Sunday in the papers? A No, sir.

Q Did not? A No.

Q Did you read about it Monday, during Monday, in the papers? A No.

Q Monday night you heard of his arrest, didn't you? A

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No, sir.

Q What did you hear Monday? A I heard a little gossip about this murder being committed Saturday night:

Q Did not hear that Madden had anything to do with it?

A No, sir.

Q Why was it that that made you remember that Madden came in on Saturday night and had his hair cut and got a shave? A I thought may be he might have something to do with it.

Q What made you think that? A It was so near the neighborhood.

Q This was away up---where was the murder? A The murder was in 41st Street and 8th Avenue.

Q That was a long way from 33rd Street and 10th Avenue? A No, sir; not very long.

Q How did you come to connect Owney Madden with it? A I don't know.

Q You say you thought---cannot you tell me why you did? A I don't know.

Q Cannot you tell me what there is about Owney Madden that made you think of him in connection with the murder up at 41st Street and 8th Avenue? A When I heard something about this, there being a notorious gang around the neighborhood, I thought may be that---

Q What made you connect Owney Madden with the notorious gang murderer? A He was around the neighborhood and I happened

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to know his name and some others.

Q Around what neighborhood? A 33rd Street.

Q What did that have to do with a murder at 41st Street and 8th Avenue? A I thought may be they might have gone up there and done it.

Q When you say "they" who do you mean? A Those fellows in that gang.

Q What gang? A That gang that hangs out around Thirty-third Street.

Q Which gang is that? A The Hayward Club, I think it is.

Q Who are they? A Those fellows that hang around there; I did not know.

Q Tell me some of their names? A Well, I think there is Marty Ellis and Owney Lawlor and Mulhall; and Jack Marron and I don't know of any others.

Q What made you connect Owney Madden with that crowd, does he go with them? A He used to go with them, yes.

Q Anybody else? A No, sir.

Q Do you know all those men who are in this gang you speak of? A Well, I don't know them personally.

Q Don't they all come in your barber shop to get shaved? A No, not all.

Q A good many of them? A Not many of them either.

Q Some of them? A Yes.

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Q Which ones? A Jack Marron and Owen Lawlor.

Q Owen Madden? A Owen Madden used to come in.

Q Anybody else? A Marty Ellis used to come in.

Q Any one else? A That is about all.

Q Is it not a fact that you are afraid of that crowd? A  
No, sir.

Q Not a bit? A No.

Q Is not every one in that neighborhood afraid of them?

A Well, some of them are.

RE-DIRECT EXAMINATION BY MR. COLLIGAN:

Q Do you remember when Madden was arrested? A I don't  
remember.

Q Do you remember that the shooting occurred on Saturday  
night? A Yes.

Q When did you first hear that he was arrested? A I  
think it was Tuesday.

Q You heard about it Tuesday? A Yes, I think it was.

Q Now, after hearing that he was arrested, did you hear  
anybody talk about it---didn't you talk it over with some of  
your friends? A I think I did.

Q Is not that what brought the matter to your attention, the  
fact that you knew he had been arrested? A Yes, sir.

Q Wasn't it by that situation that you recollect he was  
in there Saturday night?

MR. EDWARDS: I object to these suggestive questions.

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THE COURT: I sustain the objection, as leading.

BY MR. COLLIGAN:

Q You read of his arrest, you read of that on Tuesday?

A I did not read of it.

Q You heard of it? A Yes.

Q What are you afraid of---you are not afraid of anybody here? A No.

Q Don't be frightened, you won't be harmed---you heard of it on Tuesday? A Yes.

Q Then, do you recollect talking about the matter to anybody? A No, sir.

Q How do you recollect that Madden was in there on Saturday night? A About this murder happening on this Saturday night.

Q You know he was in there the night the murder happened?

A Yes.

Q How are you sure of that---do you know positively ~~it~~ the murder occurred on Saturday night? A Yes.

Q Then you recollected afterwards that Madden was in there on that same night? A Yes, sir.

Smart: N I C H O L A S J . L I G O R A N O , called and sworn as a witness on behalf of the defendant, testified as follows:

DIRECT EXAMINATION BY MR. COLLIGAN:

Q What is your business? A Importer.

Q Of what? A Importer of Olive Oil.

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Q How old are you? A 23.

Q How long have you lived in New York? A Thirteen (13) years.

Q Eighteen (18) years? A Thirteen (13) years.

Q Do you recollect the night of the shooting of Patsy Doyle?

A Yes, sir.

Q Do you recollect that it was a Saturday night? A Yes, sir.

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

Q How long have you known him? A Well, I have lived in the neighborhood all the time, thirteen years, and I have seen him around there.

Q Have you ever associated with him? A No, sir.

Q Never did? A No, sir.

Q Did you see him on the night of Saturday, when Patsy Doyle was shot? A Yes, sir.

Q Where did you see him? A In the barber shop, 415 10th Avenue.

Q You are absolutely sure of that? A Yes, sir.

Q Why are you so sure of it? A Well, I came down from the house, and went into the barber shop and saw him.

Q Why are you so sure it was the night of the shooting?

A Well, because it was brought back in my mind when I read about the case the following morning in the newspapers, and I read the papers again on Tuesday morning, and he had been arrested.

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Q And he had been arrested? A For that case, and it came back to me that he was in the barber's shop.

Q Do you recollect what time you came in the barber shop?

A 8:30.

Q Why are you so sure of that? A Why, I looked at my watch, and naturally, there was a clock in the place and I looked up at the clock the same time.

Q Why did you look at the watch and the clock? A I had an appointment at ten o'clock and I wanted to be sure my watch was right.

Q How long did you remain in the barber shop? A Till twenty to ten.

Q Twenty to ten? A Yes, sir.

Q Do you recollect how long Madden remained there? A Well, about fifteen minutes after he went out, I went out.

Q Fifteen minutes? A After he went out, I left the place.

Q You went out at twenty-five to ten? A Yes, sir.

Q And that would make it about twenty after nine he went out?

A I am not sure, fifteen or twenty minutes.

Q You are absolutely positive? A Yes, sir.

CROSS EXAMINATION BY MR. EDWARDS:

Q So Madden did not go out of there till 9:20? A I did not see the exact time.

Q I thought you did? A Fifteen or twenty minutes.

Q Before what? A Before twenty-five minutes to ten.

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Q That would be nine twenty, would it not? A Yes, sir.

Q You think he was there till then? A Yes, sir.

Q Now, what was it that first called to your attention the fact that you had seen him there? A Well, on a Tuesday morning, when I read about the case, that he had been arrested in the case.

Q Why, didn't you tell Mr. Colligan a moment ago it was on Saturday morning? A I read about the case, but did not know about Madden till he was arrested.

Q You knew nothing of the case till Saturday? A No, sir.

Q Why did that cause you to remember that it was Saturday night, on Sunday morning, what caused you to remember? A Did not cause me to remember at all? I did not remember anything about Madden on Sunday morning, I did not know nothing about Madden nor anything else. I just read the case, that is all.

Q Did not you tell Mr. Colligan a few minutes ago that when you read the papers that Sunday morning that reminded you? A No, sir; I said Tuesday morning.

Q Well, on Tuesday morning, what did you read in the papers?

A I read that he had been arrested the night before.

Q Are you a friend of Madden's? A No, sir---to the extent of "How do you do?" when I see him. I see him in the neighborhood.

Q How long have you known him? A Since I lived in the neighborhood.

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Q Whereabouts did you live in the neighborhood? A 33rd, 500 West 33rd Street.

Q And between what avenues? A Corner of Tenth Avenue.

Q Which corner? A South west corner.

Q Southwest corner? A Yes, sir.

Q Right over the saloon on the corner? A yes, sir.

Q What is the name of that saloon? A McDermott's.

Q Do you know of Owen Madden's friends in the neighborhood? A Well, I see them around there.

Q What are their names? A I know his brother in law, Jack Marron.

Q You know him pretty well? A Not to any extent. I associated with him just to say "How do you do?" that is all.

Q Any one else, any more of Madden's friends that you know? A Oh, O'Connell.

Q O'Connell, which one, Dan or Jimmie? A I know both of them.

Q Knew both of them? A Yes, sir.

Q Any one else? A Well, ~~there~~ there are a few more I see around there, but I don't know their names.

Q Do you know Owen Lawlor? A yes, sir.

Q Yes, I thought so. A Yes.

Q Do you know Marty Ellis? A Marty Ellis, no, sir.

Q Know Willie Mulhall? A No, sir.

Q Any more of the friends of the defendant around there

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that you know? A Yes, I know a few more, I could recall them all, if I saw them, but I don't know their names.

Q Did the defendant and his friends stay around that neighborhood?

MR. COLLIGAN: I object to that. I think it is a little beyond the scope to which this man ought to testify.

THE COURT: I will let him say if he knows.

A Well, I see him on the corner there, some times.

BY MR. EDWARDS:

Q What corner?

THE COURT: Keep your voice up.

Q What corner? A Across the street from where I live.

Q What is on that corner? A A restaurant.

Q That is, you saw both the defendant and these friends of his whom you have mentioned there, did you? A Some times.

Q Very frequently, did not you? A I am not around there all the time. I do not stay there.

Q You live there. A I don't stay around there.

Q Didn't you see them very frequently at nights, when you are going out and coming in? A Some times, not often.

Q Very seldom? A No, not very seldom---once in a while I see them.

Q Is it quite often or is it very seldom? A Very seldom.

Q Very seldom? A Yes.

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Q Now, when you came into the barber shop that night, were you in a hurry? A No, sir.

Q Plenty of time? A Yes, sir.

Q Did you---but you still were anxious to know what time it was? A I just come down from the house, I didn't know the time. I looked at my watch.

Q Had you your watch on? A Yes, sir.

Q And you knew what time your appointment was? A Yes, sir.

Q And you knew it was not till ten o'clock? A yes, sir.

Q And yet you looked at your watch and the clock in the barber shop? A yes, sir.

Q Now, what was it that impressed that on your mind? A What was that?

Q What was it that impressed that/<sup>hour</sup>on your mind? A Which hour?

Q The hour at which you said you went into the barber shop?

A What impressed it on my mind?

Q Yes? A I don't get you.

Q What did you remember then ---put it that way, do you understand that? A What made me remember the time?

Q Yes? A Well, I recalled it, as I told you before, when I read about the case on the Tuesday morning.

Q That is the only reason you can give us why you remembered it definitely? A That is all.

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Q Did you speak to wadden at all that evening? A No, sir---that evening he was in the barber shop?

Q Yes? A I remarked he had got a good hair cut, I did not think the boy could cut hair as good as that.

Q Was that the only remark? A Stood there talking for ten minutes.

Q Were you not in a chair? A No, sir.

Q Were still waiting? A Yes, sir.

Q Did you get a hair cut and shave? A No, sir; nothing at all.

Q What, did not get anything, just loafing in the barber shop, I see? A It is not loafing, the barber is a friend of mine and I generally go in there.

Q The barber is a friend of yours? A Yes, sir.

Q You didn't see where wadden went, when he went out, did you? A No, sir.

Q You stayed in there while he went out? A yes, sir.

Q Did he run away when he went out? A No, sir.

Q Did not appear to be in a hurry at all? A No, sir.

MR. COLLIGAN: Call Thomas O'Neill.

T H O M A S O ' N E I L L , called and sworn as a witness on behalf of the defense, testified as follows:

DIRECT EXAMINATION BY MR. COLLIGAN:

Q Where do you live? A 456 West 35th Street.

Q Where do you work, O'Neill? A Mark Cross & Company.

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Q What do you do with them? A What do you say? Assistant Receiving Clerk.

Q How long have you been with them? A About three years.

Q Have you worked steadily? A Yes, sir.

Q Every day? A Yes, sir; and I got called off at work to-day.

Q Do you live with Mrs. Madden? A Yes, sir.

Q How long have you lived there? A For about four years.

Q Do you recollect the night that Patsy Doyle was killed?

A I don't recollect the night, no, sir.

Q You remember he was killed? A Yes, sir; I remember he was killed, read it in the papers.

Q Yes, what time did you get home that night? A I got home that night about twenty after six.

MR. EDWARDS: I object to when the witness gets home every night. It is a matter which should be confined to the particular night in question, if he remembers.

THE COURT: He can testify if it is an invariably custom. He says he cannot fix the night especially.

BY MR. COLLIGAN:

Q You invariably reach home about twenty minutes after six, do you not? A Yes, sir.

Q Do you recollect seeing Madden there that night? A Yes, sir.

THE COURT: He says he does not know.

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MR. COLLIGAN: He does know.

BY MR. COLLIGAN:

Q What do you mean when you say you do not know? A I did not know Doyle being killed, as you asked me, you says, "Do you remember Doyle beingshot?" I said I only read it in the papers on Sunday morning.

Q Read it in the papers Sunday morning? A Yes, sir.

Q Now, on the night that Doyle was killed---A yes, sir.

BY THE COURT:

Q You said the night before you read this in the paper?

A No, sir.

Q That is the night he is talking about? A Yes, sir.

BY MR. COLLIGAN:

Q The night before you read of the killing in the paper, did you see Madden? A Yes, sir; he was in the house.

Q Did he live there? A Yes, sir.

Q How long had he been living there? A He has been living there since I went in with my cousin, or my aunt, at least.

Q Is---was his wife there at one time? A His wife used to come there regularly, yes, sir.

Q Now, what time did you leave the house that night? A I left about---I could not exactly tell you the time, it was about half past seven, that is just about the time it was, and Owen left with me, and I left him down there, 33rd Street and 10th Avenue. I had an appointment for a show, and Owen left me there,

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when he said he was going into the barber's, that is the last I saw of him.

CROSS EXAMINATION BY MR. EDWARDS:

Q And that was about what time? A Half past seven or twenty-five to eight.

Q Where did you leave him? A 33rd and 10th Avenue.

Q And what street did you say you lived on? A 35th Street.

Q Where? A Right off.

Q East or west? A West.

Q And you came out and walked down Tenth Avenue with Madden, and left him at the corner of 33rd Street? A Yes, sir.

Q And he told you he was going to a barber shop? A Yes, sir.

Q That was after 7:30? A Yes, sir.

Q Now, what was there about reading about this murder on Sunday morning that reminded you of the night before, that Madden was at home? A Well, I don't know; I just happened to read of the murder, that was all.

Q How did that come to jog your memory as to whether Owen was home that day or not? A Because he was arrested that morning, night, and I heard Owen was arrested, and trying to blame him for the crime, and I could tell the truth that he was here that Saturday night.

Q He was arrested Monday night? A Yes, sir.

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Q You told Mr. Colligan as I understood you, that you read about the murder on the Sunday? A Sunday morning.

Q I want to find out why it was on Sunday morning, the story of that murder suggested Owen Madden?

MR. COLLIGAN: He has not said anything like that. He was trying to put the night of the murder in his mind, and realized the fact that Madden had been there, but he did not say when he made up his mind as to when Madden did.

BY MR. EDWARDS:

Q Now, can you answer my question? A Yes, sir.

MR. EDWARDS: Will you please read it, Mr. Stenographer).

(The question was repeated by the stenographer).

THE WITNESS: Well, when I read it in the paper I recollected the night, that Saturday night that I walked down with him, and I remembered leaving Owen.

BY MR. EDWARDS:

Q What was there in the story in the newspaper on Sunday morning that made you think of Owen Madden? A His name, it said the "Owney Madden Gophers."

Q Who were the Owney Madden Gophers? A I don't know, that is all.

Q What did that suggest to your mind---the Owney Madden Gophers? A I just thought that they were trying to blame Owney for the crime.

Q What did you understand Owney Madden Gophers to mean? A

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I did not understand nothing.

Q What are the Owney Madden Gophers? A I don't see any of them around there, only I see Owney around there.

Q Have you asked Owney who the Owney Madden Gophers were?

A Never asked him.

Q Did not say you wanted to know what that meant? A No, sir.

Q You have been in that neighborhood how many years? A All my life, pretty near.

Q And you don't know what the Owney Madden Gophers mean?

A No, sir.

Q Do you know any of Owney's friends? A No, sir.

Q Not any of them? A I never seen them.

Q Didn't you ever go around with Owney? A No, sir. Once in the while, go and fly pigeons.

Q Did not you ever go out with him? A Once in a while

Q Didn't you go around with him? A Not at all.

Q Didn't you know any of his friends? A No, sir.

Q Your own cousin lived in the same house with you? A No, sir.

Q Can you give us any reason why you didn't? A I didn't because I did not go down there very much.

Q You didn't? A I didn't go down 33rd Street.

Q Kept away from there, did you? A Yes, sir.

Q Now, did you see Owney again after half past seven that

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evening? A Well, he sleeps with me.

Q Did you see him again that night? A Owney---no, sir.

Q Didn't come home that night at all? A Owney?

Q Yes? A I don't think so, no, sir.

Q You slept with him, didn't you? A Yes, sir.

Q He sleeps with you? A No, sir.

Q He was not home that night at all, was he? A No, sir.

Q Did you see him on Sunday? A Sunday night.

Q What time? A About seven o'clock, over supper.

Q Where did you see him that night? A In the house.

Q Did you go down to Tammany Hall to a racket with him that night? A No, sir.

Q Did he tell you he was going? A No, sir.

Q Did you see him that night after supper? A No, sir.

Q Did he sleep with you that night? A No, sir.

Q He was not in all that night, was he? A No, sir.

Q And on Monday night he was arrested, was he? A Yes, sir.

Q Did he get home before you went to work on Monday morning?

A On Monday morning he was in bed.

Q I thought you said you did not see him any time Monday night? A On that Monday morning, he slept.

Q What time did you go to work? A About half past eight.

Q Did he come home before you went to work? A No, sir; it was about nine o'clock.

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