

START

361

CASE

19

INDEX TO WITNESSES.

	Direct	Cross	Re-Direct	Re-Cross
Charles A. Carroll,	6	29	42	45
Willard Parker Worster,	45	54	55	55
Francis Clabby,	56	82	121	127
John A. Coleman,	128	140		
Francis Clabby, Rec.	144	147	154	

INDEX
D
O
I
E

CASE # 361

INDEX TO WITNESSES.

April 21, 1903.

	Direct	Cross	Re-Direct	Re-Cross
John D. Douglas,	156	159	161	162
Francis J. Kear,	162	169	170	
John J. Cleary,	171	175	177	
Walter L. Hunsaker,	184	200	255	
Hannah Claire Hunsaker,	256	257		
James Shannon,	266	272	287	291
Harry Barnes,	292	292	292	
Walter Shannon,	296	297		
John P. Butler,	300			
George S. Weld, M.D.	302			
Walter L. Hunsaker,	303			
REBUTTAL.				
Francis J. Kear,	306	309		
John Coleman,	309	310	311	312
Walter Shannon,	313	314		

CASE # 361

397

I N D E X .

Dir. Cross Re Dir. Re Cross

Robert B. De Camp

318 354 1/4

1961

19

COURT OF GENERAL SESSIONS OF THE PEACE,
IN AND FOR THE COUNTY OF NEW YORK,
PART III.

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

vs. :

WALTER H. HUNBARD,

indicted with ROBERT B. DeCAMP. :

Before
HON. WARREN W. FOSTER, J.,
and a Jury.

-----X
Indictment filed March 19, 1903.

Charge: Robbery in the First Degree, Grand Larceny, First
Degree, Assault Second Degree, and Receiving.

New York, April 20, 1903, et seq.

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

ARTHUR C. TRAIN, ESQ., Assistant District Attorney, for the
People.

JAMES J. FITZGERALD, ESQ., for the Defence.

-----X
George F. Flack,
Official Stenographer.

5
1
0
0

CASE # 361

MR. FITZGERALD: If your Honor please, at this time I would like to move that the witnesses in this case, except the police officers, be excluded from the room during the giving of testimony.

THE COURT: Certainly; make the direction, Mr. Clerk.

MR. TRAIN: The doctor you don't care about?

MR. FITZGERALD: No; the doctor I do not care about.

THE COURT: All except the doctor.

MR. FITZGERALD: The doctor and the police officers.

2117

THE PEOPLE'S CASE.

PEOPLE'S COUNSEL'S OPENING ADDRESS.

MR. TRAIN: If the Court please, Mr. Foreman and each of you, Gentlemen:

The defendant has been indicted, together with one Robert B. DeCamp, for robbery in the first degree.

The other counts cover other crimes which are contained in the same facts, and which will be proved to establish the crime of robbery in the first degree.

In regard to the other counts, I have nothing to say whatever, because this case is of such a character that, if you gentlemen, after hearing the evidence, do not come to the conclusion that robbery in the first degree

CASE # 361

3.

was committed, you cannot possibly come to the conclusion that any other crime was committed.

I feel justified in stating, in opening this case, that this is one of the most outrageous cases of robbery that has ever been perpetrated in this city, and the astonishing part of the case, the thing that struck me the moment that I began to prepare it, has been the apparent respectability of all parties concerned.

Now, I am not going to take much time in stating what facts I am going to prove, because the case is simple, although severe. It is so simple that it needs no introduction.

Briefly, the defendant, in company with one DeCamp and a young man named Clabby, a young fellow named Clabby who will be called as a witness, were going around the streets together, from saloom to saloon, on the night of the 4th of March last, and so fell in with Mr. Carroll, the complainant in this case.

Together they joined forces, and went to see if they could not get a drink somewhere, and, finding saloons closed, they eventually went to the poolroom which is owned and operated by the defendant. I mean by poolroom, a billiard room -- pool parlor.

After being there awhile, the evidence is that the defendant suggested that the complainant Carroll,

CASE 77361

9911

4

who was under the influence of liquor, could be easily robbed; that he could be so stunned by the use of a billiard cue that his injuries would not be fatal, but that he would be merely unconscious and an easy victim for a robbery.

That the complainant Carroll had jewelry and diamonds on his person, and in conformity with this suggestion, two of the three men -- namely, DeCamp and Hunsaker-- followed Carroll out of the pool parlor out onto the street. It was in the middle of the night and a foggy night. With them was Clabby. They followed Mr. Carroll and on the street, and the co-defendant DeCamp carried in his pocket a billiard cue, or a part of one, which he had secured from the colored attendant of the pool parlor, at the suggestion of the defendant, I believe. He ran up behind the complainant, Mr. Carroll, knocked his hat off and struck him on the head with the billiard cue.

Mr. Carroll turned and received on his head seven or eight of the most vicious kind of blows, which knocked him to the ground. At the same time he was assailed by the defendant with a pistol, and was struck by the defendant with the handle of the pistol on the head.

It was a tough struggle. DeCamp was unable to cope with Carroll, even in his intoxicated condition,

CASE # 361

and it required the assistance of this defendant with the butt of a pistol to render Carroll unconscious.

Carroll fell to the sidewalk, they stripping him of his watch. They hammered his hand with the billiard cue, hammered the ring on his finger in order to render it possible to take it off, and left him for dead.

Then they scattered. Clabby had seen some of this assault, but, taking fright, at the conduct of the two men whom he had been with, he ran up the street, and, either to escape any implication in it himself or because he was afraid of what the other two might do, he tried to get away.

The three men met later on, say in about five or ten minutes, in some Square, and there the defendant produced some of the jewelry which he had taken from the prostrate Carroll. The jewelry was returned to Hunsaker's pocket, and later, as they continued along the street, they stopped under a gas lamp and the defendant divided the jewelry between himself and ~~the~~ De-Camp, taking himself a valuable diamond which he removed from its setting by the light of this lamp; and this diamond was later found, I believe, under the carpet in the house of the defendant.

It is unnecessary to go any further into details of this crime. I have said enough to you gentlemen.

198 # 361
CASE # 361

You see that, if you believe the evidence, you cannot find but one crime in this case, and that is robbery in the first degree; and I won't ask your consideration of any of the other counts in this indictment.

I may say, further, however, that, as you gentlemen have all become familiar with the law on the subject during the term, that a principal under the law is anyone who takes any part in a crime, either procures its commission, takes part in it, counsels it or aids or abets in it in any way, whether present or absent.

C H A R L E S A . C A R R O L L , called as a witness on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q Try and speak as loudly as you can, Mr. Carroll.

A Your Honor and gentlemen -- may I just make a previous statement for a moment?

Q No; not permitted. Speak as loud as you can.

A Very well.

Q If there is anything important you wish to say to me, I will withdraw you and you can speak to me back here, but not there. A No, there is nothing -- only there is no animus; in the testimony I have given there is no vengeance. I am not guilty of that.

ORIGINAL

198 # 3813
CASE # 361

7

THE COURT: The jury will infer that.

BY MR. TRAIN:

Q Now, your name is Charles A. Carroll? A Yes, sir.

Q And you reside where? A 203 West 81st Street.

Q 203 West 81st Street in the City and County of New York? A Yes, sir.

Q Your testimony refers to events which have happened in the City and County of New York? A Yes, sir.

Q What is your business, Mr. Carroll? A A man of leisure.

Q Speak louder than that.

BY THE COURT: (Interposing)

Q You have no business, have you? A I have no business, no.

BY MR. TRAIN:

Q Are you retired? A Yes, sir.

Q What was your business before you retired? A Manufacturer.

Q Of what? A Coal into coke, sand into glass, oyster shells burned as lime into glass.

Q And to-day you are more or less interested in that sort of exploitation? A Yes, sir.

Q Now, on the 4th day of March, 1903, did you own a diamond ring containing three stones? A I did.

Q A pair of cuff buttons? A I did.

9922

1937 7361

Q A gold and black chain and a gold pencil? A Yes, sir.

Q And a gold watch? A I did.

Q All of the value of about \$600? A Yes, sir.

Q Will you state where you were on the evening of the 4th of March? A I went into a hurry-up lunch room, on 81st Street and Amsterdam Avenue prior to going home -- I live almost opposite to this lunch room,-- there to get a fried egg sandwich and a glass of milk.

Q What time was this? A That was one o'clock A. M.

Q 1 o'clock A. M. on the 4th of March? A Of the morning of the 4th of March.

Q What sort of a morning was this? A A very muggy, foggy night.

Q At that time were you under the influence of liquor? A No, sir; I had been drinking, yes.

Q But you were not, as you would say, under the influence of liquor? A No, sir. I knew everything going on.

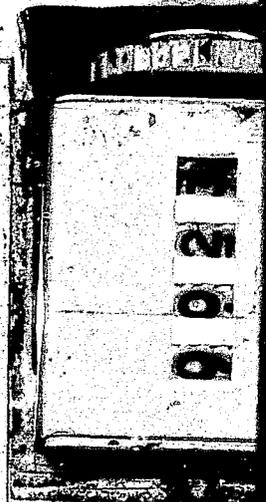
Q Whom did you see in this lunch room? A There was a number of people sitting down.

Q Did you see the defendant? A I did.

Q Was anyone with him? A There was.

Q Who? A Clabby and DeCamp, with another -- I don't know his name.

Q Had you ever seen any of these three or four men before? A Never in my life prior to that evening.



Q And prior to that moment? A Prior to that moment, never.

Q Did you sit down in the lunch room? A I did.

Q Did you talk with this defendant? A Well, I don't think I did. The conversation was general between the five of us. He participated, yes.

Q Were you at the same table? A No.

Q Did you hear the defendant say anything? A Not that I could recall.

Q How long did you stay in that lunch room? A Possibly ten or fifteen minutes.

Q And when you left, where did you go? A We visited by my invitation --

Q You walked around to go some place? A yes, sir.

Q To get a drink? A Yes.

Q Where did you go? A It was immaterial. Just where we would get in. I didn't know at that hour what place was open, but they were familiar with the district.

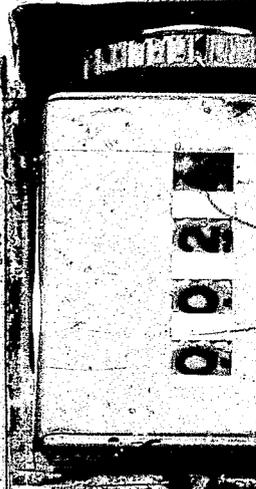
Q You didn't know what places were open? A No, sir.

Q Did the defendant suggest any place? A Yes, two places were suggested, and we found both closed.

BY MR. FITZGERALD:

Q The question was, Did the defendant suggest any place? A I don't think he did; I don't know that.

BY MR. TRAIN:



198-2-361

Q But it was suggested by one of the parties? A Yes, suggested by one of the parties; not myself.

Q And you all went out together? A yes, sir.

Q Where did you go? A Went as far as 84th Street, and Amsterdam Avenue, from 81st Street going north. We stopped at two places and found them closed. Then it was suggested by one of us to go to Kennelly's. I don't like to mention these names if I can help it.

Q You had better state where you went. A We went direct to Kennelly's, and there drank at the tables and smoked. It was suggested -- then the conversation went --

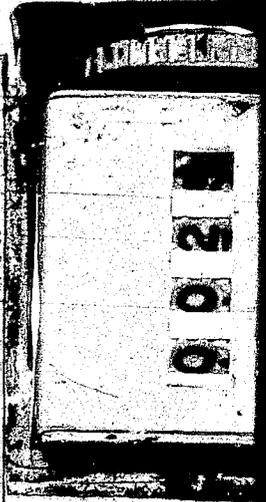
Q About what time was it that you left Kennelly's? A I think we left Kennelly's in possibly twenty minutes; not to exceed that time, to my knowledge now.

Q About what time was it that you left? A Well, that would be about twenty-five minutes to two o'clock, by my own idea.

Q From there where did you go? A It was suggested by the defendant that we -- A "highbinder", I don't know what I would call it -- that we would go to a place in a billiard room, in the basement, near 79th Street.

Q Did he say whose place it was? A Yes -- no, I don't think that was stated.

Q But he asked the party to go there? A Yes, and to



take a cue out -- a four-handed game of pool.

Q At that time had you begun to get somewhat under the influence of liquor? A No, sir; I had not. The milk and eating was a sedative.

Q But you had been drinking? A I had been drinking, yes.

Q Was any of the other members of the party intoxicated?

A No, sir; they were not, and especially -- they were all sober.

Q You went to this billiard parlor? A We did.

Q Where was it? A It was in a basement in one of the buildings on the corner of 79th Street, I would say in the basement.

Q Who was there when you got there? A A black man, a negro.

Q And what did you do after you got there? A The room was illuminated.

Q Was any person playing? A No, sir; the place was locked up.

Q Did the defendant open the door? A He opened the door -- I don't know who opened the door.

Q With his key? A Yes, the door was opened by one of the party, because the black man was on the table sleeping when we came there.

Q Did you engage in a game of pool? A We did.

9031

1987 361

Q With the defendant? A With the defendant.

Q Did all hands take part? A All hands took part.

Q How long did you play before the game changed at all?

A I couldn't state that, Mr. Train.

Q Did you play -- A We played an hour.

Q You played an hour? A Or an hour and a half.

Q Then what did you do? A Four of us played but a little while;
the defendant and DeCamp -- they retired and talked over some-
thing that I didn't hear, and was not conversant with.

Q They talked together? A Yes, they talked together.

Q And you don't know what was said? A I don't know
what was said.

Q And you played with whom? A With Clabby.

Q What was the black man doing? A He was standing
around. He was not doing anything especially.

Q How did your entertainment there conclude? A I
found that the game was not interesting with Clabby, and
I quit.

Q Did you make a remark to the defendant? A There
was not an unpleasant word passed.

Q Did you say Good night? A I laid a piece of money
on the counter and walked upstairs, and deliberated which way
I would go, because of the night being inky, foggy.

Q This was below the level of the sidewalk? A Yes.

9027
CASE # 361

Q And you had to ascend how many steps of the stairway?

A I should say twelve or fourteen.

Q When you got to the top, you hesitated? A yes, a moment.

Q Did you observe whether anyone in the billiard room the followed you? A I left three of them down there.

Q Did you observe anything that they were doing when you left? A I did not.

Q You finally made up your mind which way to go?

A Yes.

Q Which way was that? A By way of 79th Street West.

Q You were going home? A Going direct home.

Q Did you have to cross any street? A No, sir.

Q How far did you go before anything happened to you?

A I got, to my recollection, 125 to 150 feet west of Columbus Avenue on 79th Street.

Q Did you see any living soul while you were walking along the street? A I did not, sir.

Q Did you know that anybody was following you? A I did not hear a footfall, sir. One-half of the sidewalk there is stone. The balance is sod; the center is a sod part, grass plot between the curbing and the sidewalk.

Q You were walking on the sidewalk, I assume? A I was walking on the stone pavement.

Q Then what was the first thing that happened to you?

196
77
361

A I was wearing a black derby hat, and it was pulled off my head in the back. I heard it drop and knew something was going to occur, and looked around, and there I saw DeCamp. DeCamp, during the evening, had told me he was a sergeant of police.

Q Was that in the presence of the defendant? A It was in the presence of the defendant and Clabby.

Q That he was a sergeant of police? A Yes, sir.

Q Had you made any reply to that? A Then I knew I was in safe hands.

Q Did you state whether you had ever seen a sergeant of police before to your knowledge, not in his uniform?

A I think possibly that remark was made, sir.

Q Now, you say that your hat was knocked off? A Yes, sir.

Q And the moment your hat was knocked off, did you feel anything else? A I looked around and saw DeCamp, when a blow struck me here (indicating) simultaneously.

Q Simultaneously on your turning around you received a blow? A Yes, sir.

Q And did you see DeCamp deliver that blow? A I did, sir. I saw DeCamp deliver this blow.

Q Now, go on and state what happened? A Well, I made the remark, "My God, Sergeant, there is no use killing me!" Says I, "Take all I have got;" and then the blows came thick

CASE #361

and fast. I put my hand ~~xx~~ to my head and received the blow here (Showing left hand), on this part; and I counted eight blows on my head.

After one blow, a blow struck me here (Indicating on top of head), and I felt the wrist of another. I knew it was not the wrist of the man that had been battering me, because there was too much strength in that blow on the front of my head; and the blood was flowing in torrents.

MR. FITZGERALD: I object to his conclusion, that there was another man there, unless he saw the other man.

THE WITNESS: I did not. I did not see any other man. I only saw one man.

THE COURT: Only answer questions, and when an objection is made, stop.

MR. FITZGERALD: The objection is to the witness stating that he felt somebody else's wrist and knew there was another man there; unless he saw the other man, that is a conclusion.

THE COURT: He has given his reasons to the jury, and they may infer whether there was another man there. Go on with the questions.

MR. FITZGERALD: Exception.

BY MR. TRAIN:

Q Did you have the consciousness of the pressure of this hand on your forehead simultaneously with the reception of

CASE # 361

another blow? A Yes, sir; I felt the wrist of the person.

Q Did you feel whether there was anything in that fist?

A Well, I made up my mind then and there --

MR. FITZGERALD: Objected to.

MR. TRAIN: Never mind about that.

THE COURT: Just answer the question, Mr. Carroll.

A (Continuing) There was an instrument; certainly I did.

BY MR. TRAIN:

Q And did you feel a blow from that instrument? A I did, sir.

Q Do you received blows from two instruments at the same moment, to your knowledge? A Yes, sir.

Q How many blows did you receive from this other instrument? A One blow; and says I, "Now, you ought to make a nice and excellent fall, because this will go on without interruption; they will batter you into a jelly".

Q You were talking with yourself? A Yes.

MR. FITZGERALD: I move to strike that out.

A (Continuing) And I fell then and the blows ceased.

MR. FITZGERALD: I move to strike out what he said to himself.

THE WITNESS: Ain't it a wise man that talks to himself?

MR. TRAIN: Wait a moment.

CASE # 361

9931

THE COURT: Just answer questions. Strike out what was said to himself.

BY MR. TRAIN:

Q You did not say this aloud? A I did not, sir. What particular use, with those highbinders, had I to talk?

Q Please don't answer me back, Mr. Carroll. I will get all the facts before the jury, and I can't do it unless we conduct the matter by question and answer.

THE COURT: Mr. Carroll, confine yourself just to answering questions.

THE WITNESS: My pulse is 108, and it has been just going at a trip-hammer rate.

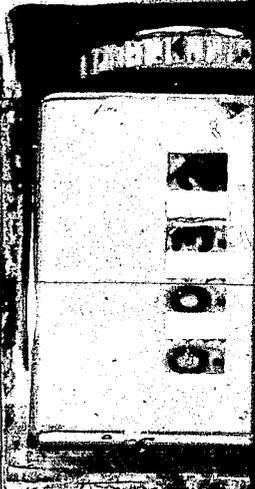
MR. FITZGERALD: I move to strike that out, and that the witness be instructed that it is entirely irregular and unjust to this defendant.

THE COURT: Strike it out. Mr. Carroll, just answer questions. The statement of your condition, while a matter of importance to yourself, is no part of the record of the case. Just conduct yourself as coolly and calmly as possible, and merely answer questions. Proceed, Mr. Train.

BY MR. TRAIN:

Q Now, Mr. Carroll, as you fell, or after you fell, did you receive any more blows? A At the time I got this blow here (indicating) my watch-chain was pulled off. You see,

CASE # 361



I have not the use of this right arm. If they had tackled a strong, healthy man, that would have been different.

MR. FITZGERALD: I move to strike that out.

THE COURT: Strike out all following the answer to the question.

BY MR. TRAIN:

Q In point of fact, have you the use of your right arm? A I have not the free use of it.

Q What is the defect, the injury to that arm?

A The dislocation of some vertebrae or knuckle, right in here (Indicating), so that I have to raise the elbow.

Q You have to raise the elbow before you can use the hand? A I can't drink or feed with my right hand. I have to use my left.

Q Had you brought this fact to the attention of the ~~man~~ defendant during the course of the evening? A It is noticeable with me.

Q And you had been eating and drinking in his presence? A Yes, sir.

Q The blows that you received, were they more on one side of your head than the other, or were you approached from one side? A First in front; I turned around and there saw the other.

Q When you say "the other", whom do you mean?

A DeCamp.

CASE # 361

Q Now, although you felt, as you say, the blow from another, did you see the person that delivered it? A I was under the shatter of the blow.

MR. FITZGERALD: I object, and move to strike that out.

MR. TRAIN: I will withdraw the question.

Q Was there anything which prevented your seeing who was delivering the blows after the first one? A The blood that was pouring out of the wound.

Q Speak a little louder. A Blood was coming out of these wounds in my head, over my forehead and eyes.

Q And while that blood was pouring down, could you see DeCamp? A I could not.

Q Could you see anybody? A No, sir.

Q After you fell, what? A Then they battered this little finger (Showing).

Q Did you see who did it? A I did not.

Q Do you know what it was battered with? A I do not.

Q Was that the finger on which you had the diamond ring with three diamonds in it? A Yes, sir.

MR. TRAIN: The witness indicates the little finger of his left hand.

Q Was that done immediately? A Yes, sir.

Q Was it done with some heavy instrument? A I am unable

CASE #361

to answer that question.

Q Are you able to state whether it was done with a boot-heel, pistol-handle or a billiard cue? A I am unable to answer.

Q Did you feel the ring being taken off? A I did. I thought the finger was going with it.

MR. FITZGERALD: I move to strike out the last statement of the witness.

MR. TRAIN: Consented to. That may be stricken out.

THE COURT: Yes.

THE WITNESS: Can't I have an opinion of my own, your Honor?

THE COURT: Mr. Carroll, you must not express your opinions. You may have them.

MR. TRAIN: It is not evidence.

THE COURT: You must not express them unless the District Attorney brings them out by his questions.

BY MR. TRAIN:

Q Besides the hammering of your little finger, was anything else done to your prostrate while you were lying?

A And a rib was broken.

Q Did you feel that? A Well, I don't think I did, Mr. Train.

Q You were unconscious at that time? A I don't think I was unconscious.

198 # 361
CASE # 361

Q Then why didn't you feel the breaking of this rib?

A Well, the other pains was greater than the part of the rib, as light as that, sir.

Q Do you know how the rib was broken? A I do not.

Q Do you know whether it was done with a billiard cue, a pistol-handle or the heel of a boot? A I do not, sir.

Q What else happened? A I did not hear them running away.

Q Have you any means of telling how long you laid there? A It was only a very little while. I got up.

There was my hat, but, says I, "If I make a movement" --

MR. FITZGERALD: I object, if your Honor please.

THE COURT: Go right on, Mr. Train.

BY MR. TRAIN:

Q Well, you were in great fear? A No; I don't know what that means.

MR. FITZGERALD: I object to that.

THE COURT: That may remain. Go on, Mr. Train.

MR. FITZGERALD: Exception.

BY MR. TRAIN:

Q And were you able to take up your hat from the ground?

A I was not.

Q What did you do? A I retraced the steps I had made, and walked to Columbus Avenue, and, thinking that I could find a cab, going north or south of Columbus Avenue to take me

CASE 361

to Roosevelt Hospital, I looked for one. Is that to be stricken out?

THE COURT: Go on, Mr. Train.

BY MR. TRAIN:

Q Go on, Mr. Carroll? A You want me to proceed?

Q Go right ahead; did you find the cab? A I looked up and down the street and there was no cab in sight, and no car. I walked towards the south on Columbus Avenue, on 77th Street, and there overtook a milk wagon. I stopped the driver, and asked him to take me home.

BY THE COURT:

Q Did he take you home? A He did.

BY MR. TRAIN:

Q What time did you get home, Mr. Carroll? A Well, that -- from what the folks at home say, -- now I am going on that --

MR. FITZGERAID: I object.

BY THE COURT:

Q What is your best recollection of the time you got home, Mr. Carroll? A Well, time never played much part with me.

Q Then you don't know what time you got home? A I don't really; only hearsay.

BY MR. TRAIN:

Q Were you at times unconscious or semi-conscious after

CASE #7861

this assault?

MR. FITZGERALD: Doesn't that call for a conclusion? I object to such a question.

THE COURT: If the witness knows whether or not he lost consciousness, he may say so; therefore I will permit the question.

A I didn't know when the cuff buttons were being removed from my wrists. I therefore must have lost consciousness.

Q You did not feel the cuff buttons being removed?

A I did not.

Q Now, at the time that you went down the street, after you got to your feet, did you find that you had on the your person a diamond ring with the three stones, or was that gone? A Yes, sir; I knew the watch, chain and diamond ring were gone; yes, sir.

Q And the stud -- no; pair of cuff buttons? A I didn't notice, Mr. Train.

Q When did you notice the absence of your cuff buttons? A At Judge Mayo's Court in 54th Street.

Q How long after the assault was that? A I couldn't tell you, sir.

Q Was it the following morning? A No, sir.

Q When you got home did you send for a physician?

A Yes.

Q What doctor? A One of the guests in the house.

198-7-361

Well, all the guests were aroused, in fact, by the landlady.

MR. FITZGERALD: I object. What doctor, please?

BY MR. TRAIN:

Q Was there a doctor in the house? A A Doctor Shannon, and he refused to come unless he was paid the sum of \$10 in advance. A gentleman at the house had only come to the house that evening for dinner, or the evening previous. He didn't know what kind of an establishment, I guess, he had got into.

MR. FITZGERALD: If your Honor please.

THE COURT: Strike that out. You see, Mr. Carroll, in trying a case we are hampered by the technical rules of evidence. There are certain things which properly enough strike your mind as important, but which are not important in point of fact as evidence.

THE WITNESS: Well, your Honor, if the doctor refused to come without being paid--

THE COURT: Strike out the statement that he refused to come.

BY THE COURT:

Q The doctor did not come, did he? A Yes, sir; he came.

Q What time did he come? A Dr. Willard Parker Worster was in my apartment. One of the folks in the house had thought after the incident --

1937-361

Q Well, Dr. Parker came? A Dr. Worster.

Q Dr. Parker Worster? A Yes, sir; Willard Parker Worster,
M. D.

Q What time did he get there, if you know? A Well, I
don't know.

THE COURT: Go on, Mr. Train.

BY MR. TRAIN:

Q Now, you were treated by Dr. Worster? A I was, sir.

Q In the early morning of the 4th of March? A I was.
to

Q Now, when were you able to go the police court?

A Well, they hurried me up, Mr. Train.

Q When was it? A The bail was reduced.

Q Now, just one moment. You got to the police court
when?

MR. FITZGERALD: Is that stricken out?

MR. TRAIN: Consented to.

A I think it was a fortnight afterwards.

Q From the house did you go to the hospital? A No, sir.

Q You remained in the house? A Yes, sir.

Q Under Dr. Worster's care? A Yes, sir.

Q How long was it before you were able to go out?

A I don't think I ought to be in the street now.

Q That may be, but how long was it before you in fact
went out on the street?

MR. FITZGERALD: I move that the previous answer be

191

stricken out.

MR. TRAIN: Consented to.

Q How long was it before you went out on the street?

A About a fortnight afterwards, Mr. Train.

Q And you told your story there before Magistrate Mayo?

A Yes, sir.

Q At that time were the three defendants arraigned?

A Yes, sir; there were four of them then.

Q Who were they? A Shannon, the highbinder's step-son, and Clabby and DeCamp.

MR. FITZGERALD: I object to the characterization of "the highbinder's step-son".

MR. TRAIN: Referring by "highbinder" to the defendant, I presume.

THE COURT: Strike out "highbinder's step-son".

THE WITNESS: And the defendant.

MR. FITZGERALD: I move that your Honor instruct the jury at this point that they should pay no attention to these characterizations.

THE COURT: Anything that is stricken out, of course is not in the case, and the jury will not pay any attention to it.

BY MR. TRAIN:

Q They were arraigned, and you saw them before Justice Mayo - Clabby, Shannon, DeCamp and the defendant, Shannon

being the defendant's step-son? A Yes, sir.

Q At any time have you had any conversation with the defendant himself about his participation in this assault?

A No, sir.

Q Have you ever received your property back? A No, sir.

Q Ever seen any of it? A Yes, sir.

Q What property have you seen? A All of it.

Q Where have you seen it? A In the 54th Street police court, between the 8th --

Q Is that the police court where you went? A Yes, sir.

Q And when did you see it; at the time of the arraignment of these four men? A Yes, sir.

Q Was there any difference in the appearance of your property? A Very marked.

Q What was it? A Well, the bar was removed from the chain, and the ring was battered up almost double.

Q Were the jewels in the ring? A There was one -- there was two jewels in the ring.

Q Which one was missing? A The center one.

Q The largest diamond? A Yes, sir.

Q Was there any difference in the appearance of the watch? A No, sir.

Q Or cuff buttons? A No, sir.

Q And who showed the jewels to you? A Mr. Coleman. They were on the Judge's desk for identification by me.

Q And they were in the custody of Officer Coleman?

A Yes, sir.

Q Did you see, after leaving the saloon, Clabby at any time? A Since this affair?

Q On the street?

MR. FITZGERALD: I object to "the saloon".

BY MR. TRAIN:

Q I mean, after you left the billiard parlor? A During that night?

Q Yes. A No, sir; I didn't see any of them until --

Q Do you bear on your person the marks of this assault?

A Yes, sir.

Q On your head? A Yes, sir.

Q Do you know how many cuts you had on your head which had to be treated by Dr. Worster? A Four, and two contusions of the scalp almost to the skull.

Q And is your finger still in the condition into it was rendered by the blows of your assailants? A Yes, sir.

Q Have you any other injuries besides those you have mentioned? A A black eye, about as bad as you can get, and my thumb was all battered to pieces.

Q Your thumb was battered? A Yes, sir.

Q During the course of the evening had you seen any weapon of any sort in the hands of the defendant? A No, sir.

Q Had you seen any weapon in the hands of DeCamp?

A I did.

CASE #361

Q What was it? A A revolver, black handle, whether nickel or steel I don't know.

Q Was this shown to you at the same time that he stated to you -- A That he was a sergeant.

Q --that he was a sergeant of police? A Yes, sir.

Q Was any use made of that revolver in your presence? A No, sir; no more than showing it.

Q Did the defendant make any statement in regard to himself, who he was or what his business was, to your knowledge? A He did not, to my knowledge; in fact he had very little of anything to say.

CROSS-EXAMINATION BY MR. FITZGERALD:

Q Mr. Carroll, you stated that you were not well?

A I have.

Q And you are not feeling well now? A (Witness laughs).

Q I understood you to say that your temperature was very high? A Yes, and the pains in my head are not the most pleasant.

Q You have been confined to your house since this occurrence? A Almost constantly, sir.

Q Where had you been, Mr. Carroll, that night, before you met Mr. Hunsaker? A I had been at a saloon at the corner of 81st Street and a saloon at the corner of 76th Street, I think.

CASE # 361

Q Which avenue? A Amsterdam.

Q When did you go into the restaurant? A About one o'clock, Mr. Fitzgerald.

Q Where did you come from? A Came from the saloon at 76th Street.

Q How long had you been there? A I don't know that; fifteen -- ten minutes.

Q Have a drink there? A Yes, sir.

Q Before you went there, where had you been? A I had been at 81st Street and Amsterdam Avenue.

Q A liquor store? A Liquor store.

Q How long were you there? A Ten minutes.

Q Did you have a drink there? A Yes, sir.

Q Before you went there, where had you been?

A I had been at my club.

Q When did you go to the club? A Been there in the afternoon.

Q Had you been to the club all afternoon and evening?

A No; from the club we went up to a restaurant on one of the cross streets near Broadway for dinner.

Q And didn't you go back to the club? A Yes.

Q What time did you finish dinner? A Nine or ten o'clock.

Q Were you alone? A No, sir.

Q Other people with you? A Yes.

1937
CASE 77361

Q How many? A Three.

Q All had dinner together? A All had dinner together.

Q And what time was it when you went to Kennelly's?

A I think it was twenty-five minutes or twenty minutes after one o'clock.

Q You had been in a couple of places with these men before you went to Kennelly's? A Yes,-- well, we stopped, but could not get into any place.

Q Oh! A No, we didn't get into any other place.

Q When you got to Kennelly's, did you sit down in the restaurant? A Yes.

Q That is a large restaurant, isn't it? A It is a very large restaurant.

Q One of the largest up there, in that vicinity? A Yes, sir.

Q A very conspicuous place? A very.

Q Brilliantly lighted up? A Yes, sir.

Q And you went in there with these men and sat down?

A Yes, sir.

Q Have any drinks there? A Yes, sir.

Q Can you tell how many? A Yes, sir.

Q How long were you there? A Well, I stated before; twenty minutes.

Q And can you state any of the conversation that took place in there? A Yes; we were talking politics.

CASE 77361

Q Talking politics? A And how the district should be run. Do you want to hear the conversation?

Q Oh, no, Mr. Carroll. I have heard so much of that that I will excuse you.

THE COURT: Go right on.

BY MR. FITZGERALD:

Q Well, you talked politics? A Yes, sir.

Q Did you talk about anything else? A Well, we had more talking than anything else. That was the important part of the conversation.

Q That was the main subject? A Yes, sir.

Q Was there any trouble there that night, Mr. Carroll? A No, sir. It was as pleasant an evening for the time I was with them --

Q No trouble between you and any other person?

A None whatever, sir.

Q Now, when you went into Kennelly's, were there five in the party? A There were five, yes.

Q Who was the other man? A I don't know his name, sir. He left us at Kennelly's.

Q He left you at Kennelly's? A Yes, sir.

Q Well, you all sat at one table? A Yes, sir.

Q Who sat on your right? A The defendant.

Q Who sat on your left? A DeCamp.

Q How were the others arranged? A On the far side, next

1937-38

to the defendant.

Q And you heard every word of the conversation that he uttered, I suppose? A Well, I was there to hear it if he made any. I don't recall him participating in the conversation at all. The conversation was between Clabby, DeCamp and myself.

Q Then you went down to Hunsaker's poolroom? A Yes, sir.

Q How long did you remain there? A Well, not exceeding an hour and a half. I don't presume it was over an hour.

Q What did you do? A Played pool, fifteen ball pool.

Q How many played? A Four.

Q Who were the four? A The defendant, Clabby, DeCamp and I.

Q You played all the time you were there, did you not? A I did, sir.

Q Will you swear that Hunsaker did not play all the time you were there? A I didn't say that. We started a four-handed game, and the defendant and DeCamp were through.

Q When? A During the -- after one frame, or after a frame of pool had been decided, they withdrew, and went to the front of the room and talked. What their conversation was I don't know, but Clabby and myself continued to play.

Q How long did it take you to play that one frame? A Well, it depends on the ability of the players.

CASE 361

Q How long did it take you that night, I ask?

A I couldn't tell you, sir; I couldn't tell you that.

Q Couldn't say? A No, sir.

Q What else took place there in the pool room?

A Nothing that I know of that was of any moment.

Q Cannot you tell whether it took you fifteen minutes or an hour and fifteen minutes to play that one frame?

A Oh, it didn't take anything like fifteen minutes to play a frame.

Q I ask you how long it did take? A Well, a minute to a ball, that would be fifteen minutes.

Q And will you swear that Hunsaker only played one frame with you? A I don't swear to the number of the frames, Mr. Fitzgerald, no. I know he played part of the evening with us.

Q As a matter of fact, will you swear that he did not play all the time that you were playing? A Yes, I will swear to that, and will swear that he only played a little while; and for a man that owns a poolroom --

Q One moment, now; I don't want any conclusions; just answer questions, sir. After you got tired playing, what did you do? A Retired and went upstairs.

Q Did you have a drink? A No, sir.

Q What? A There was no liquor sold there.

Q Who went upstairs? A I did.

1961

Q Did you say anything at any time before you went?

A Bid them goodnight.

Q Said goodnight? A Yes, sir.

Q And you went upstairs? A Yes, sir.

Q Did you close the door after you went out? A I don't remember that, sir.

Q You went up all alone? A yes, sir.

Q When you got to the top of the stairs, what did you do? A I deliberated an instant which way I would go, whether by way of 79th street or 81st Street. 79th Street, on account of the night being inky, I selected, on account of its being a wide street.

Q How? A I selected 79th Street and went up that way.

Q Your home is on 81st Street? A yes, sir.

Q And how many blocks west of where you were? A It made a difference of forty -- say eighty feet; double; forty feet from where I came up the steps to the corner of 79th Street, and then going up to 81st Street --

Q I didn't ask that, Mr. Carroll? A Well, forty feet out of my road.

Q I asked you if your house is not west of where you were? A It is north of where I was.

Q And is it not west of where you were? A And west, yes.

Q And what avenue is it near? A Amsterdam.

CASE # 361

Q It is near Amsterdam Avenue? A yes.

Q So, then, instead of going directly home, you went downtown to the corner of 79th Street and walked over 79th Street? A Yes, sir.

Q You selected 79th Street in preference to any other street? A Yes.

Q Did anybody suggest to you that you go down to 79th Street? A No person.

Q You went there of your own free will? A I did.

Q When you came up from the basement and stood on the street deliberating which way you should go, was anybody with you then? A No person.

Q You walked ^{to} down the corner alone? A I did, sir.

Q Was anybody with you when you got to the corner?
A No person.

Q Did you see anybody? A I did not.

Q In the street? A No, sir.

Q Then you turned the corner of 79th Street and Columbus Avenue? A Yes, sir.

Q And walked west on 79th Street? A Yes.

Q The north side? A The north side of the street.

Q When was the first time that you became conscious that anyone was near you? A When my hat went off the back of my head.

Q Didn't you hear a step behind you? A I did not, sir.

CASE # 361

Q Never heard a sound? A I did not, sir.

Q And you turned around, did you? A I did, because I felt that there was something going to occur that would be ugly.

Q You turned around? A Yes; there was no occasion for my hat to drop off.

Q You were struck, were you not, when your hat fell off?

A Immediately after my hat fell off I was struck. My hat was not knocked off, but was just pulled off, nicely raised, and thrown on the pavement.

Q And at the same time you were struck? A Yes, sir.

Q But you turned as you were being struck, did you?

A I did, and I saw the sergeant.

Q You saw the man that calls himself the Sergeant?

A Yes, DeCamp.

Q Who introduced him to you as a sergeant? A He did.

Q Which one? A DeCamp.

Q Now, he struck you? A Yes, sir.

Q Did you say anything to him when he struck you,

Mr. Carroll? A Yes, sir.

Q What did you say? A I said, "My God, Sergeant, take all I have got, but there is no use killing me!"

Q And what did he say? A I got no reply.

Q He kept on, then, did he not? A He did.

Q And even then, could you not see if anybody else was

with him? A No, sir.

Q How many blows did you receive, Mr. Carroll, before you fell? A I counted eight.

Q Did you hear anything said? A Not a word. Footpads don't talk.

Q Have you had any experience ~~that~~ with footpads?

A No, sir; I never have had, but I have read "Sherlock Holmes".

Q Well, you say they didn't talk? A No, sir.

Q How many do you say were there? A One I saw. I say that --

Q Then we all know why they did not talk. If there was only one man whom could he talk to? A But I say the man that struck me here (Indicating) was not the man that struck me and continued to strike, using the instrument on the top of my head.

Q But you say there was only one man there? A When I turned around, and my hat fell off, yes, there was only one man there.

Q You were talking to yourself? A A good many thoughts came flying --

Q Were you talking to yourself? A No, sir; I was not talking to myself. Those thoughts were going through my mind very rapidly.

Q You say you saw all your property? A Yes, sir.

Q And you recognized everything that was taken from you? A Yes, sir.

Q Have you seen DeCamp since then? A Yes, sir.

Q Where did you see him?

MR. TRAIN: Objected to as immaterial.

THE COURT: He may answer that.

A At the 54th Street police court, at Magistrate Mayo's Court.

Q Have you conversed with him about this case? A I have not, sir.

Q Have you seen Clabby since then? A Yes, sir.

Q Have you conversed with him about the case? A Yes, sir.

Q Where? A In my own apartment.

Q When? A Four weeks ago, I presume.

Q How many times? A Once; the conversation did not amount to a picayune.

Q I don't ask that, Mr. Carroll. I have no doubt about that. Did you make any outcry for help or anything? A No, I was not -- I couldn't raise my voice.

Q Were you drinking that night, Mr. Carroll? A With these gentlemen?

Q Oh, no. A Lager beer.

Q From the time you started from the club? A Lager beer.

Q Before dinner? A No.

Q At dinner? A At dinner, I don't know what we did have.

1917-3000

It was a light wine; the name of it I have forgotten.

Q And you drank beer? A Yes.

Q That evening? A Yes, sir.

Q Nothing else? A A Scotch whiskey.

Q A Scotch whiskey? A Yes, sir.

Q Anything else? A Milk, yes.

Q I mean an intoxicating beverage? A No.

Q Isn't it so, Mr. Carroll, that when you left the pool room that night, you went out with this man DeCamp, and did he not walk with you? A I didn't go out of the poolroom with DeCamp, sir, and he didn't walk with me. I was alone.

Q Your recollection is very clear on that? A It is particularly clear.

Q Before you left the poolroom, do you remember any incident that occurred there? A No special incident occurred at all that attracted my attention, further than the withdrawal of the players,-- two. Yes, I do.

Q Please relate it. A A revolver; and I wanted the revolver in my pocket instead of in the pocket of DeCamp.

Q DeCamp had a revolver? A He had the revolver.

Q What else did he have? A That was all I know.

Q What did you say to him about the revolver? A I couldn't recall the sentence I used.

Q Don't you remember this incident: You had your coats

1937
CASE # 361

off? A yes, sir.

Q Don't you remember when the coats were being put on, that DeCamp put on Hunsaker's coat? A I do not, sir.

Q And Hunsaker made him take it off? A I do not, sir.

Q Don't you recall Hunsaker making DeCamp take his coat off, and claiming that he was going to steal his coat? A I do not, sir. I left them, sir, without their coats off when I retired from the billiard room.

Q How long an interval did elapse from the time you left them until you were struck? A The time that it required me to walk, say, 200 feet.

Q Could you hear them come up behind you? A I did not, sir.

Q Up the stairs? A I did not.

Q How large a place is this poolroom, Mr. Carroll?

A Well, I don't know.

Q How many tables were there? A I think there were three or four.

Q You played there for an hour and a half? A There was only one table illuminated, sir.

Q What is that? A There was only one table illuminated. That was the table we were playing on. The tables in the rear were dark. The number of tables I am not positive about.

Q Wasn't there anybody else there? A A negro, yes.

Q Where was he all this time? A Well, I don't know just

9051

1962

what position he occupied, sir, in the room.

Q Did you see him conversing with anybody? A I did not; I did not, sir.

Q How long a time would you say elapsed from the time Mr. Hunsaker stopped playing until you left the poolroom.

A I wouldn't answer the question, I can't answer it; that is all.

Q Then don't try; that is all. (No answer.)

RE-DIRECT EXAMINATION BY MR. TRAIN:

Q How long after you had had your hat knocked off from your head, and received one blow, which you say was from an instrument in the hands of DeCamp, was it before you felt this second instrument being used on your head? A Very rapid, Mr. Train; very rapid.

Q How many seconds; could you tell the number of seconds? A A couple or three seconds.

Q Two or three seconds? A Yes, sir.

Q And this little incident of the coats which Mr. Fitzgerald has asked you about, can you swear that no such incident happened prior to your leaving the room? A Positively swear to it.

Q (Handing object to witness) Now I show you a ring, Mr. Carroll, and ask you if that is the ring which you had on when you left the poolroom? A It is, sir.

Q And when you left the poolroom, did it have a third

0057
CASE 361

diamond in the center? A Yes, sir.

Q And was the ring round? A Yes, sir.

Q I show you -- is that a stud (Exhibiting)?

A A cuff button.

Q It is hard to tell what it is in its present condition. That is a cuff button? A Yes, sir.

Q And this (Showing) is another cuff button? A Yes.

Q You had those on when you left the saloon? A I did, sir.

Q Was that straight or curved? A A little curvature.

Q I show you a watch and chain; are those your watch and chain that you had on when you left the pool room?

A Yes.

Q Did it have a bar? A A platinum bar on, and gold -- about half and half, if you know what I mean.

Q Was this pencil (Showing) attached to one end of the chain? A Yes.

Q And did you see this diamond (Showing) in the police court? A I did, Mr. Train, yes.

Q Was it fitted into the ring? A Yes.

Q You identified it as the diamond which was in that ring, so far as you can identify a diamond? A Yes.

Q I wish you would stand up and point out to the jury on your head where these blows were delivered on your head.

19

and what marks there are that have been left by them; just bend over and show the jury. A (The witness complies).

Q Is this (Indicating on witness's head) one of the places? A Yes, sir.

Q And up here (Indicating another place)? A Yes, sir. Here and here and here (Indicating), and two contusions of the scalp; it was away raised up; they have since softened and are disappearing gradually.

MR. TRAIN: I offer these articles of jewelry in evidence.

Admitted in evidence without objection, and marked as follows by the stenographer.

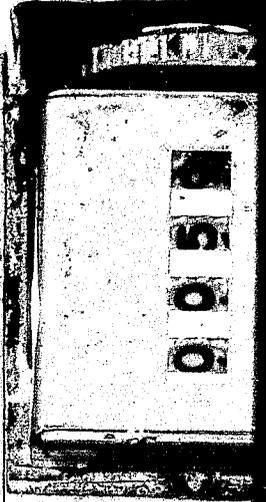
- Diamond Ring, People's Exhibit No. 1.
- A loose diamond, People's Exhibit No. 2.
- Diamond cuff stud, People's Exhibit No. 3.
- A gold cuff stud, People's Exhibit No. 4.
- Gold watch and chain, People's Exhibit No. 5.
- Gold Pencil, People's Exhibit No. 6.

Q Could you swear that someone did not follow you from the pool room? Did you turn around? A I did not. A good soldier never looks behind.

Q And you did not look behind to see if anybody was following you? A I did not.

Q And so you can't swear, can you, that there was not someone following you closely? A I cannot.

1937-361



Q Can't tell anything about it? A Can't, sir.

RE-CROSS EXAMINATION BY MR. FITZGERALD:

Q You say, Mr. Carroll, that you were discussing politics in Kennelly's? A Yes, sir.

Q And did that same subject continue being discussed down in the poolroom? A I hardly think so. I think we dropped it at Kennelly's. That I am not positive of, sir, but I think that we dropped it.

BY MR. TRAIN:

Q Was there any discussion of any sort between you and the defendant at any time? A None whatever. It was as pleasant an evening, as I have said, as I want to pass.

WILLARD PARKER WORSTER, M. D., called as a witness in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

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

Q Did you attend the complaining witness in this case, Mr. Charles H. Carroll, on the morning of the 4th of March?

A I did.

Q Will you state what wounds he was suffering from when you were called to attend him, in detail? A He had -- may

0060
CASE # 361

I refer to a piece of paper?

THE COURT: If necessary, you may.

MR. TRAIN: (To defendant's counsel) The witness wants to refer to a piece of paper for the purpose of refreshing his memory.

MR. FITZGERALD: Oh, yes.

A (After referring) to memorandum) He had four scalp wounds -- three lacerated scalp wounds; they were cut to the bone; two contusions of the outer table of the skull, involving the bone part; he had a fracture of the sixth rib; a fracture of the left little finger; a contusion of the metacarpal bones of the hand; a contusion of the left thumb, in which the tendons of the thumb were involved and sprained; a fibrous inflammation of the tissue; a contusion of the right eye, ~~black~~ blacked, and involving the bone.

Q Now, what did you have to do for Mr. Carroll; how many stitches did you put in his head, for example? A I took twenty-three.

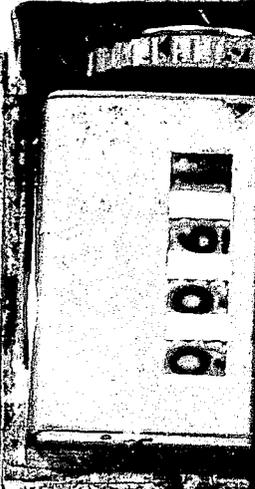
Q Can you state the nature of the instrument that caused the wounds in Mr. Carroll's head? A No, I could not.

Q Were they wounds that could have been made with the end of a billiard cue? A Yes, a blunt instrument.

BY THE COURT:

Q Were they incised wounds? A No incised wounds; all lacerated.

CASE 361



BY MR. TRAIN:

Q And were they such as could have been made with the handle of a pistol? A Yes, sir; I think the one on the forehead was made with the butt of a pistol.

MR. FITZGERALD: Now, if your Honor please,--

BY THE COURT:

Q Why do you think so? A Because I could see the imprint of the butt in the wound.

BY MR. TRAIN:

Q Will you describe, as near as possible --

MR. FITZGERALD: One question, Mr. Train:

Q Did I understand the witness to say that he could see the ~~mark~~ imprint of the butt of a pistol in the man's head?

THE COURT: That is what he said, precisely.

BY MR. TRAIN:

Q Will you describe just exactly what you did see?

A The wound of the forehead was cut down as if it was gouged out by an instrument that was curved. It was curved and lacerated and torn, so much so that I had to take a great many stitches in that forehead wound, so as to bring the points together.

Q The channel of the wound was curved on the sides?

A Curved on the sides and down below.

Q And how long was that wound? A How long?

Q Yes? A Oh, the wound was-- the wound was about six inches long, across the forehead that way (Indicating).

CASE 77361

Q Across the forehead? A Yes.

Q Was there any other wound on Mr. Carroll's head that was in any way similar to this wound? A No.

Q This was unique? A This was unique.

Q Was there any other wound on Mr. Carroll's head which, in your opinion, was caused by the butt of a pistol?

MR. FITZGERALD: I object to that question on the ground that it calls for a conclusion, clearly.

THE COURT: I sustain the objection to the question.

BY MR. TRAIN:

Q Now, the other wounds -- in the first place, how deep was this wound on the forehead? A To the bone.

Q To the bone? A Right down to the bone.

Q Was that a blow which would have required little or much force -- a wound which would have required little or much force to inflict? A I don't think there was much force used on it.

Q Not much force used on it? A No.

Q How about the other wounds? A The other wounds were straight, as if they were done by a straight weapon of some kind.

Q All straight? A Yes; the scars show the straight wounds.

Q Will you describe the condition of the little finger

1937
CASE 77361

of Mr. Carroll's left hand? A His little finger was fractured.

Q What was its appearance on the outside? A Well, it had no particular appearance except that the bone was fractured.

Q The bone was fractured? A The bone was fractured.

Q Can you tell how that was done? A I couldn't tell how it was done at all.

Q Were there any imprints of blows on the flesh of the finger? A There was a laceration on the inside, on the inner aspect of the third phalanx opposite the fracture, as though it had been gouged out with the nail, or something like that. It was not cut and was not bleeding.

Q Can you state, from the examination that you made of this finger, whether the blow which caused the fracture was from a smooth or a corrugated instrument, or probably from an instrument that had a nail in it? A No.

Q Can't tell anything about it? A No, sir. The abrasion was not made from the blow of the fracture.

Q The abrasion was not? A No, sir.

Q What was the abrasion from; could you tell whether it was from a ring which was on the finger? A I couldn't tell.

Q Might it have been made by a ring on the finger?

A The abrasion was right on the inside there (Indicating), and the fracture was here (Indicating). The abrasion was above

0097
CASE 77 361

the fracture, as though it had been dug out by force.

Q If there had been a ring upon that finger and force had been applied to the ring, might it not have caused the fracture and also the abrasion? A I don't think that would have caused the fracture.

Q It might have caused the abrasion? A Might have caused the abrasion.

Q And then, if the instrument had missed the ring and hit the hand, that might have caused the fracture? A Yes, sir.

Q So that, in your opinion, there were two blows at least upon the little finger of that left hand? A No, I don't think the abrasion was caused by a blow, I say. It was caused by something, as if it was dug out by a finger nail.

Q In the removal, possibly, of the ring?

MR. FITZGERALD: I object, if your Honor please.

THE COURT: Objection sustained.

BY MR. TRAIN:

Q Now, will you describe this fracture of the rib?

A It was a fracture of the sixth rib.

Q Yes? A It was on the right side.

Q What was the condition of the body over the rib?

Bruised? A Only the sign of the fracture, that is all.

1961

Q Could you state how this fracture had been caused?

A I could not.

Q Is much force required to fracture a rib? A Not much force.

Q Could you tell whether it was made with the foot or an instrument held in the hand? A No; I don't think it was. There was no sign of any abrasion on the skin.

Q No sign whatever? A No, sir.

Q (Continuing) That would point to force being applied generally? A I believe there was some black and blue spot around the rib.

Q A black and blue spot? A Yes.

Q Could the fracture of the rib and the black and blue spot have been caused by a man kneeling upon the chest of Mr. Carroll? A It might have been.

Q Now, these other wounds and contusions that you have described, what was their nature; made by an instrument or with a man's fist? A Well, the contusion of the bone of the hand, I suppose, must have been made by an instrument.

Q By an instrument? A Of some kind.

Q Was that on the same left hand? A Same left hand, yes.

Q Now, was there much blood upon Mr. Carroll's person? A Oh, yes; he was full of blood.

Q How was that? A Covered with blood, saturated.

198
CASE 361

Q Was it in his eyes -- had his face been washed when you arrived? A No, sir.

Q Had not been washed? A Not that I know of.

Q And his face was covered with blood? A His face was covered with blood, and the pillows.

Q Did you see his clothes? A I didn't see his clothes.

Q Was he in bed when you came? A He was in bed, was lying there.

Q How long did you treat Mr. Carroll; not at that time, but how long did you attend him? A I am attending him yet.

Q When did you allow him to leave the house first? A Well, I don't know exactly; I think about the 12th of this month.

Q The 12th of April? A I think so.

Q Do you know in point of fact whether the 12th of April was the first day that he left the house? A No, I don't know; I think that he was out before that.

Q Do you know for what purpose? A No, I do not.

Q And will you state what Mr. Carroll's condition is as a result of those injuries that you have described? A It is very much shattered.

MR. FITZGERALD: One moment, now; calling for the condition of Mr. Carroll. There is a distinction between his physical condition after receiving those blows. Mr. Carroll's condition, we don't know what it was before

1916

he received them.

MR. TRAIN: My question was, as a result of the blows.

THE COURT: Mr. District Attorney, you in your opening stated that you would withdraw in substance all charges save that of robbery in the first degree.

MR. TRAIN: I did not commit myself. I said if the evidence was believed, the just should find a verdict of Guilty of Robbery in the First Degree, and I would not comment upon the other evidence.

THE COURT: His condition is only relevant on a charge of assault, whether or not the wounds were grievous or serious. The present condition of the defendant might be evidence on that head, but only on that head.

MR. TRAIN: That is before the jury.

THE COURT: But in view of the fact that there is no evidence here as to what his condition was before the injury, I think it safer to sustain the objection.

BY MR. TRAIN:

Q Will you state what the condition of Mr. Carroll is at present as a direct result of those injuries? A Well, he is very nervous; he is troubled with dizziness, and he is erratic a little bit, and his nervous system is shaken.

Q His nervous system is shaken? A To a great extent.

Q And he is still under your care? A Still under my

care.

CROSS-EXAMINATION BY MR. FITZGERALD:

Q Doctor, you described the wounds that you found on Mr. Carroll's head, and you spoke particularly of one wound that seemed to be different from the others. Will you describe ~~xxxx~~ that wound once more? A That was the wound on the anterior part of the forehead.

Q Just indicate on your own forehead where that is?

A Right about there (Indicating). It was lacerated and depressed, and torn in points, like as if it was scalloped, and conveyed to me the impression of having been made by a curved-handled instrument of some kind. That is all the impression it made on me. I couldn't say exactly what instrument it was made by. These points were jagged and I had to fix them up as best I could to sew them together. So that it was not made by a single stroke, and it could not possibly have been made by a straight stick.

Q Look at the stick which the District Attorney has in his hand, and observe the heavy end of it, and say whether or not, in your judgment, a similar wound might not be made with that stick?

MR. TRAIN: I object to that. He can ask if that wound was made --

THE COURT: He may answer that.

1937 ESCO
CASE # 361

MR. FITZGERALD: I will change my question:

Q I ask you if that specific wound might not have been made by a stick? A It might be, if it hit him right here (Indicating), it might possibly.

RE-DIRECT EXAMINATION BY MR. TRAIN:

Q It might possibly, but your impression is that it was not so made?

MR. FITZGERALD: I object to his impressions.

(No ruling.)

BY MR. TRAIN:

Q (Handing stick to witness) I ask you, did this, or an instrument exactly similar to it, cause the wound on the head of Mr. Carroll? A As far as my opinion is concerned, it did not.

RE-CROSS EXAMINATION BY MR. FITZGERALD:

Q As far as your opinion is concerned, the wound made on the forehead was not made by that stick?

MR. TRAIN: Or a similar stick?

MR. FITZGERALD: Or a similar stick.

A Yes, sir.

Q Yet you swore a moment ago that such a wound could be made by that stick, did you not?

THE COURT: The jury heard him.

A Yes, sir.

198 361
CASE 77 361

MR. FITZGERALD: I ask him.

THE COURT: There is no use in repeating it.

The jury heard it.

A (Continuing) I did.

BY MR. FITZGERALD:

Q Then my other question: You were not there at the time the blow was struck, were you? A No.

THE COURT: There is no pretence that he was.

BY MR. TRAIN:

Q In your opinion, were the blows upon the head of Mr. Carroll made with this stick or a similar instrument? A Yes, sir.

Q And the wound on the forehead and the wounds on the head were different in their character? A yes, sir; that is my impression.

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

DIRECT EXAMINATION BY MR. TRAIN:

Q Where do you live? A 2386 Broadway.

Q And how old are you? A Eighteen.

Q Do you work anywhere at present? A No, sir.

Q Where did you last work? A I worked for the Department of Public Works.

Q Where? A In 135th Street and North River.

CASE # 361

Q And how long ago was that? A About a week ago.

Q Now, on the 4th of March, were you working anywhere?

A No, sir.

Q How long before that had you been working? A A week.

Q Where? A Down in G. R. Burns's, 26th Street and Park Avenue.

Q And what business is that? A Plumbing concern.

Q How long have you known Robert DeCamp? A I know him about two weeks before the accident happened.

Q Before the 4th of March? A Yes, sir.

Q On the 4th of March, were you residing in the same house? A Yes.

Q Were you rooming with him? A Yes, sir.

Q And how many rooms did you occupy with him, one or two? A I occupied one room and he occupied one.

Q Adjoining? A No, sir.

Q They were in the same house, but they were not adjoining? A No, sir.

Q So that, you were not his room-mate; you did not sleep in the same room with him? A No.

Q Where did you live? 2386 Broadway? A No; that is my home address.

Q Your home address? A Yes, sir.

Q Where your father and mother live? A Yes, sir.

Q And you were living where? A With Mr. DeCamp, or in

193
CASE # 361

the same house.

Q With DeCamp? A At 78th Street and Amsterdam Avenue.

Q Has that a number of any sort? A Yes, sir.

Q What? A 204, I believe; I ain't positive.

Q 204 what? A 78th Street.

Q West 78th Street? A Yes, sir.

Q How long have you known the defendant at the bar, Hunsaker? A About a month.

Q A month before the 4th of March? A Yes.

Q So you have known him longer than you have known DeCamp? A Yes, sir.

Q And how did you become acquainted with the defendant?

A With Mr. Hunsaker?

Q Yes. A Through his step-son.

Q What is his name? A Jim Shannon.

Q And where have you seen the defendant; what have been your relations with the defendant during that time?

A I have met him at his house; I went up to his house at dinner one evening, and have been in the poolroom with him.

Q Been to his place of business in the poolroom?

A Yes.

Q Was Shannon at his house at dinner? A Yes.

Q Now, where was the defendant living at that time when you went down with him? A 89th Street and Columbus Avenue; I don't know the number.

997

193-7-361

Q You don't know the number? A No, sir.

Q Now, did you meet DeCamp and the defendant on the evening of the 4th of March last? A Did I meet them?

Q Yes. A Yes.

Q Where? A Down in their poolroom parlor.

Q In Hunsaker's? A In Hunsaker's, yes.

Q It was not DeCamp's? A Not DeCamp's; no, sir.

Q Was DeCamp there when you got there? A Yes.

Q What time did you go there to the poolroom? A About half-past ten.

Q In the evening? A Yes, sir.

Q How long did you stay there? A About three-quarters of an hour.

Q And then did you three go anywhere? A Yes.

Q Was anyone else in your party? A No, sir.

Q Just you three? A Yes.

Q The defendant, DeCamp and yourself? A Yes.

Q Where did you go? A Went up to a café in 80th Street and Columbus Avenue.

Q Was that a quick-lunch place? A Yes, sir.

Q From there where did you go? A From there we walked down 80th Street, I with Mr. Hunsaker and DeCamp, to some old friend's house of his.

Q Did you eventually meet Mr. Carroll somewhere?

A Yes.

1937
CASE # 361

Q Where? A In the Hartford lunch room, 81st Street and Amsterdam Avenue.

Q Had you ever seen Carroll before that? A No, sir.

Q Were you sitting at a table when he came in? A No, sir. He was in there when we got there.

Q He was in there sitting down? A Yes.

Q And then did you all go in and sit at the same table?

A No, sir.

Q Go on and tell what happened? A We were all standing up in front of the bar, and it seems Mr. Carroll was conversing about an election, with Jim Mahon, a man that was in there.

Q Did you eventually sit down at a table and have something to drink? A No, sir.

Q Did you sit down at all? A No, sir.

Q Did Carroll ask you to go anywhere, your party?

A Yes, sir.

Q Where did he ask you to go? A To go out and have a drink.

Q And did you go out? A Yes, sir.

Q And the party then consisted of whom; Carroll, yourself, DeCamp and Hunsaker? A And Jimmie Mahon.

Q Who is he? A He owns a boarding house.

Q He was in this -- A Hartford lunch room.

9071
CASE 361

Q And you five went where? A To 83rd Street and Columbus Avenue, to the Kingswell's Cafe, but the place was closed; and when we couldn't get in there, we waked through 83rd Street to Columbus Avenue, and down to Eddie Bowersmith's.

Q Was that open or closed? A That was closed.

Q Then where did you go? A Then we went up in Kennelly's.

Q Was this other man still with you? A No; he left us at 83rd Street and Columbus Avenue.

Q And you finally got to Kelly's? A Yes, sir.

Q Did you go in there and have a drink? A Yes.

Q And how long did you stay? A About half an hour.

Q And then you four went where? A Then Mr. Hunsaker suggested that we play a game of billiards down at his place, and we all went down there.

Q Who was there when you got there? A Some colored porter he had there.

Q A colored porter? A Yes; he was sitting on the table when I went in.

Q Who opened the door? A Mr. Hunsaker.

Q Did you see him open it with a key? A Yes.

Q And then what happened, after you got into the poolroom? A The four of us shot a game of pool.

198 77 361
CASE 77 361

Q How many games did you play, the whole four of you?

A Three.

Q And then what happened? A At the end of the games I was the only one playing with Mr. Carroll.

Q You played three games in all? A Yes.

Q Do you know when the others dropped out? A Two in the center of the first game.

Q And you finished three games in all with Mr. Carroll?

A Yes, sir.

Q And in the meantime, what had the defendant done, if anything? A He was talking to Mr. DeCamp.

Q Where? A Right by the cigar counter.

Q Did you hear anything that he said? A No, sir.

Q Where was the colored man? A The coloredman was talking with them, I believe.

Q Then what happened? A Then they suggested that we go out.

Q Who suggested? A Mr. Hunsaker, and Robert DeCamp.

Q What did Hunsaker say? A He said, "We had better go out; we have played enough pool", he said.

Q Whom did he say that to? A To all in the pool parlor.

Q And then what happened? A We all walked out.

Q Who went out first? A Mr. Carroll.

Q Had Mr. Carroll said anything before he went out?

CASE 361

9977

A He bid us all goodnight.

Q Did he do anything? A He paid for two games of pool, I believe.

Q Who did he pay? A Mr. Hunsaker.

Q Then he said good night? A Yes, sir.

Q Now, did the others go out with him? A No, sir.

Q How much ahead of you was he? A About fifteen or twenty feet.

Q How far down the street was Carroll when the next person from the billiard parlor started up the steps; do you remember? A No, sir.

Q Do you remember whether any of you went up the steps with him? A No, sir. The three -- Mr. Hunsaker and Mr. DeCamp and myself -- was in the pool parlor when Mr. Carroll walked up.

Q You are sure of that? A Yes, sir.

Q And then who was the next person to go up? A Mr. DeCamp.

Q DeCamp was the next man? A Yes, sir.

Q Who went then? A Then Mr. Hunsaker and myself walked out.

Q Did you go together, or did you follow or precede Hunsaker? A Well, I went by myself, and Hunsaker caught up to me before I got to the corner.

Q You went by yourself, and Mr. Hunsaker overtook you at the corner? A Yes, sir.

1937-361
CASE 7-361

Q When you went out the door, how far up the steps was DeCamp? A I couldn't see DeCamp when I got to the top of the steps.

Q You couldn't see DeCamp? A No, sir.

Q Could you see anybody when you got to the top of the steps? A No, sir.

Q What did you do? A I walked up to the corner. I looked up the avenue, and I didn't see nobody, and I walked to the 79th Street corner, and I seen Mr. DeCamp and Mr. Carroll walking together.

Q Wait a minute; how far away were they when you got to the corner? A About 125 feet.

Q About 125 feet? A Yes.

Q Were they walking away from you? A Yes, sir.

Q Could you tell whether Mr. DeCamp or Mr. Carroll was the nearer of the two to you; could you tell which was the nearer to you? A No, sir.

Q Could you tell whether they were walking together or one behind the other, or how? A They were walking side by side; I don't know which one was first.

Q How long did you see them walking side by side? A About two seconds.

Q What happened then? A Then Mr. DeCamp knocked Mr. Carroll's hat off -- I seen it fall off -- and he hit him with something on the head.

Q Did you see what Carroll did? A Mr. Carroll went around in the air; he turned around as if he was going to fall; and DeCamp had hold of him by the collar while he was hitting him.

Q Did he hit him more than once? A Hit him about eight times, I should judge.

Q Did you see what he hit him with? A No, sir; couldn't see.

Q (Handing stick to witness) Did you ever see this instrument here? A Yes, sir.

Q Where? A Up at 79th Street and Eighth Avenue.

Q Before or after the assault? A After the assault.

Q Now, while DeCamp was hitting Carroll, did you see the defendant Hunsaker? A No more than seeing him at the corner --

MR. FITZGERALD: One moment, if your Honor please.

That is not responsive.

(No ruling.)

BY MR. TRAIN:

Q Did you see him? A Yes, sir. He was right beside me.

Q Beside you? A Yes.

Q Did you see where he came from? A Came from in back of me.

191

Q You don't know how far behind you he had been?

A No, sir.

Q And you observed that he was beside you at the moment that DeCamp was striking Carroll? A Yes.

Q Now, did you see the defendant do anything? A Mr. Carroll?

Q No; the defendant?

BY THE COURT (Interposing):

Q Hunsaker? A Hunsaker?

BY MR. TRAIN:

Q Hunsaker. What did he do? A He ran right from the corner before Mr. Carroll.

Q Did he say anything before he started? A No, sir.

Q Did he run all the way? A Yes.

Q How far did he get? A He came up in about five feet of them, and pulled something out of his back pocket, and hit Mr. Carroll on the head with it.

Q Did you see what happened to Mr. Carroll? A Mr. Carroll immediately fell.

Q Did you see them what the defendant and DeCamp did to him? A No, sir.

Q Why not? A I turned around and ran as fast as I could over in Manhattan Square Park.

Q So the last you saw was Mr. Carroll falling? A Yes, sir.

1967
CASE 77-361

Q Now, can you tell what it was that Hunsaker hit Carroll with? A I couldn't tell, no, sir.

Q Had you seen anything in the hands of the defendant earlier in the evening? A No, sir -- I saw him get his gun out of his case.

Q When? A Early in the evening.

Q Where? A Down in his pool parlor.

Q Was that after you had all returned to the pool parlor? A No, sir; before it.

Q Before you went out? A Yes.

Q Before you met Carroll, you saw Shannon take his pistol out of his pistol case? A Yes, sir.

Q Where was it that he got it? A Out of the cigar case.

Q And describe the pistol? A It was a blue steel gun.

Q What kind of a handle? A It was bone; it was a black handle.

Q Did you see where he put it? A Put it in his back pocket.

THE COURT: Who is this?

MR. TRAIN: The defendant.

BY THE COURT:

Q Who did? A Mr. Hunsaker.

BY MR. TRAIN:

Q And it was from his back pocket that you saw him take

1967-361

something with which he hit Carroll? A Yes.

Q Did you see how many blows he gave Carroll? A One is all I saw.

Q Did you see how far through the air his arm moved in giving the blow? A He had a full swing on his arm when he hit Mr. Carroll.

Q Did you see where he started the blow from? A Started it from his shoulder.

Q Up here (Indicating)? A Yes, sir.

Q And then you ran? A Yes, sir.

Q How far did you run? A I ran over to 81st Street and Eighth Avenue.

Q When did you stop running? A As soon as I got to the corner I looked around to see if I could see anybody come; and I saw someone coming through the park, which I thought was a policeman.

Q What did you do? A I stood.

Q Did this man approach? A Mr. Hunsaker came up in front of me.

Q It turned out that it was Mr. Hunsaker? A Yes, sir.

Q Did he say anything to you? A No, sir.

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

Q What did he do? A He was talking to me, but I don't know just what he said.

Q You don't remember? A No, sir.

1961

Q Then did anyone else come up to that place? A Yes, sir.

Q Who? A Mr. DeCamp.

Q How long after Hunsaker arrived did DeCamp arrive?

A About a minute, I should judge, or two minutes after.

Q How long do you call a minute; can you tell? A About two minutes.

Q Hadn't you been waiting there with Hunsaker? A Yes.

Q And DeCamp came up? A Yes, sir.

Q And who was the first person ~~you~~ to say anything?

A DeCamp.

Q What did he say? A DeCamp was the first one to say anything about the case.

Q Well, apart from the case, who was the first one of the three to make any remark, that you remember? A DeCamp.

Q What did he say? A He spoke to me about what he got, and showed me what he got.

BY THE COURT:

Q What did he say? A The jewelry.

BY MR. TRAIN:

Q He showed you the jewelry? A Showing it to me he said, "This is what I got".

Q DeCamp said that? A Yes, sir.

Q Now, what did he show you? Look at the articles on this table and see if there is anything there that DeCamp

CASE 361

showed you (Indicating People's Exhibits Nos. 1 to 6 inclusive). A DeCamp showed me all but that ring (Indicating People's Exhibit No. 1).

Q All but that ring? A Yes.

Q Showed you the pencil and the two cuff buttons?

A Yes, sir.

Q The watch and chain? A Yes, sir.

Q But it did not show you the ring? A No, sir.

Q Now, Hunsaker was there? A Yes, sir.

Q What did DeCamp say besides saying "This is what I got"? A That is all he said to my knowledge.

Q Did he say anything about a ring? A No, sir.

Q Did the defendant say anything? A Hunsaker?

Q Yes. A Hunsaker pulled the ring out and showed me the ring.

Q Hunsaker pulled a ring out and showed it to you?

A Yes, sir.

Q Is that (Showing People's Exhibit No. 1) the ring?

A yes, sir.

Q Was it in that condition when he showed it to you?

A yes.

Q What did Hunsaker say about the ring when he pulled it out of his pocket? A He had the middle stone, the middle diamond, out of the ring.

1961

Q Had he then, the first time you stopped on the corner? A Yes.

Q What did he say? A He said he wanted that middle diamond for his wife, and DeCamp could have the rest, but he wanted half of what the rest of the jewelry was worth.

Q What did Hunsaker do with the ring that he took out of his pocket? A Gave it to DeCamp.

Q Handed it to DeCamp in your presence? A Yes.

Q Was the stone in it then? A No, sir.

Q Did you see the stone? A No, sir.

Q You didn't see it at all? A No, sir.

Q And he said to DeCamp, what, about dividing the proceeds? A He wanted half of what they were worth, and made arrangements to meet DeCamp --

THE COURT: State what he said.

BY MR. TRAFF:

Q What did he say? A He said he wanted half of what the rest of the jewelry was worth.

Q Yes; well, what did he say about meeting DeCamp, or selling the jewelry, if anything? A He said he wanted half of what they were worth; I don't know what else he said; that is all I heard.

Q Did you say anything? A No, sir.

Q What did DeCamp do with the jewelry? A DeCamp put it in his pocket.

1936-7-361
CASE 7-361

Q With the ring? A Yes, sir.

Q Then what did you all do? A We all walked down to 76th Street and Eighth Avenue.

Q There what happened? A There we went through.

Q Went through? A Through 76th Street towards Columbus Avenue on the north side of 76th Street.

Q Yes; go on? A And going through the block, DeCamp pulled a gun out and threatened to shoot me if I opened my mouth, or went away from him.

Q Go on; did Hunsaker say anything from the time that he pulled the ring out up to that minute? A Only making arrangements where he was going to meet Mr. DeCamp in the morning.

MR. FITZGERALD: I ask that that be stricken out.

THE COURT: Strike it out.

BY MR. TRAIN:

Q What did the defendant say about meeting DeCamp?

A I don't know.

Q Well, why don't you know; because you don't remember?

A I don't remember.

Q Where did you separate? A 76th Street and Columbus Avenue.

Q Where did you go? A I went right on with DeCamp.

Q Where to? A Home to his house.

Q Did you see Hunsaker go at all? A Hunsaker left us on

198-7361
CASE # 361

that corner.

Q Did he say where he was going? A Said he was going home.

Q And you went home with DeCamp? A Yes, sir.

Q Now, where did you next see Hunsaker? A In the station house at 68th Street.

Q After you were arrested? A Yes, sir.

Q And after he was arrested? A We were arrested first.

Q You were arrested first? A Yes, sir.

Q Did you see him before his arrest, or after his arrest? You had all been arrested before he was arrested?
A I met him.

Q Did he come to see you? A Yes.

Q You were arrested? A Yes; and he was going to be arrested; he was taken by a policeman.

Q He was in custody but had not been arraigned when you saw him? A No, sir.

Q When were you arrested? A I don't know just what date it was.

Q Was it the following morning? A Yes, sir.

Q At the same time that DeCamp was arrested? A Yes.

Q Where, in your room? A In 68th Street.

Q Was anyone with you when you were arrested? A DeCamp and Mr. Coleman.

CASE 77361

Q DeCamp and Clabby? A Coleman and DeCamp.

Q Did the officer arrest both you and DeCamp, or had you been somewhere with Coleman? A Coleman came up to DeCamp's house in the morning and got DeCamp out, and then sent back word by Will Skoog that he wanted to see me downstairs.

I immediately went down and he told me that the Captain wanted to see me. So I walked down with him.

Q Who told you that? A John Coleman.

Q Then you went up with DeCamp to the station house?

A Yes, sir.

Q And were locked up? A Yes, sir.

Q And how long after that, or before that,-- before you were locked up, did you see Hunsaker; or was it after you were locked up? A No, sir; before we were locked up.

Q Where was it? A About twenty minutes before we were locked up.

Q Was he brought in? A Yes.

Q And didn't you have any talk with Hunsaker? A No, sir.

Q Then you and he were arraigned, were you not, before the Magistrate? A Yes.

Q And DeCamp also? A Yes.

Q And Jimmie Shannon -- was Shannon arraigned at the same time? A I don't remember.

Q Do you remember when he was brought in -- do you know who Shannon is? A Yes.

Q Who is he? A Hunsaker's step-son.

1967
CASE 77361

Q What was the first time you had any talk with Hunsaker?

A When I got arrested and while in the jail.

Q While you were in jail?? A Yes, sir.

Q How many days after you were arrested? A He was talking to me out loud after he was locked up.

Q On the first day? A Yes.

Q While he was in the cell? A Yes.

Q Were you in the next cell from him, or in the same cell?

A No, sir, I was three or four cells away from him.

Q Did he speak to you? A Yes.

Q What did he say? A He told me to never mind, that we would all get out.

Q Is that all he said? A Yes.

Q Did you say anything? A No, sir.

Q When did you next see him to have any talk with him?

A Going down to 54th Street, two mornings afterwards.

Q How were you going?? A In the patrol wagon.

Q You went down in the patrol wagon? A Yes.

Q And who was in the wagon? A John Coleman, and some officer that was in the back; I don't know his name.

Q And De Camp was he there? A Yes.

Q And this defendant Hunsaker? A No, sir.

Q And yourself? A Yes.

Q And you say you had some talk with the defendant --some talk with Hunsaker? A No, sir.

Q Where was the first place you had any talk with him?
A In 54th Street.

1967-1861

Q When you were let out for exercise? A Yes.

Q What talk did you have with him there? A Well, he promised to give me a job, get me a job, as soon as I got out, and give me a certain amount of money if I would get him out of the case and say that he had nothing to do with it.

MR. FITZGERALD: I object to this testimony unless it states the conversation. "A certain amount of money" is very uncertain.

THE COURT: Yes; I will strike it out, because he has stated a conclusion, his opinion of what was said.

He may state what was said, giving the words. If not the words, then his best recollection of them.

BY MR. TRAM:

Q Give the words that Hunsaker used, if you can remember them? A He told me that I would never have to work as long as I lived, if I did what was right with him in getting him out, and state that he had nothing whatsoever to do with it.

Q What did you say to that? A I told him I wouldn't go to him about the case at all.

Q Did he say how much money he would give you? A No, sir.

Q Now, how many days after you were arrested, was this talk? A About five days.

Q Did you have another talk with him, or only that one?

1987
CASE 77361

3

A When we would have our meals together, once in a while.

Q You would have other talks. A But not about the case.

Q Did he ever after that, make any other offer to you?

A Yes.

Q When? A A few days after that he wanted to do the same thing over again. He was always picking at me to say he had nothing to do with it, and to put De Camp down for the whole thing.

Q How many times did he make that proposition? A Twice.

Q Twice in all? A Yes.

Q And after the second time he proposed it, did he have any more conversation with you about it? A No, sir.

Q And have you had any talk with him since that time about this or any other subject? A No, sir.

Q Do you remember when you were arraigned before Magistrate Mayo? A Yes, sir.

Q Were you discharged? A No, sir.

MR. FITZGERALD: One moment, if your Honor please. Does he remember when he was arraigned or discharged? It is an ambiguous question.

THE COURT: What is your motion?

MR. FITZGERALD: I object to the question on the ground that it is not specific.

1961

MR. TRAIN: The question is withdrawn.

THE COURT: The objection is sustained.

BY MR. TRAIN:

Q Do you remember when you and De Camp and Hunsaker were arraigned before Magistrate Mayo, on a charge growing out of this robbery? A Yes.

Q were you discharged by Magistrate Mayo? A No, sir.

Q You were held? A Yes, sir.

Q For the Grand Jury? A Yes.

Q Were you indicted; are you under indictment for this robbery? A No, sir, I don't think so.

Q When were you discharged? A I was discharged by the Grand Jury.

Q When; how long ago? A About a week ago.

BY THE COURT:

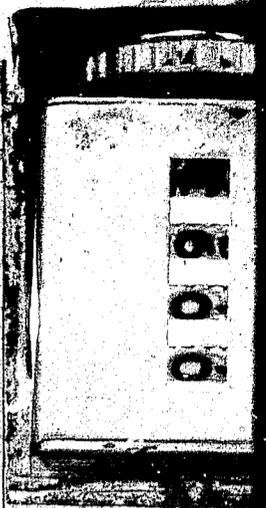
Q Do you remember the day? A No, sir.

BY MR. TRAIN:

Q You were in the Tombs, and on a certain day you were discharged? A Yes, sir.

Q Now, prior to this assault and prior to the time that you speak about, do you remember any conversation which took place in the presence of the defendant between De Camp and Mr. Carroll, as to De Camp's being a Sergeant of Police?

A De Camp often made statements to me that he was a Sergeant of



1967-161

5

Police, but I never heard him say it to anyone else.

Q. But it was not that evening? A. No.

Q. You did not hear that statement made? A. No.

THE COURT: Now we will strike out all that. He did not hear that statement made. Of course ~~he~~ anything De Camp said outside would not be competent here. We will suspend here.

The Court admonished the jury in accordance with section 415 of the Code of Criminal Procedure.

Recess to 2.05 p. m.

1963
EX-33113

6

After Recess.

(Clabby, a witness for the People, resumes the stand:)

THE COURT: You may proceed, gentlemen.

MR. TRAIN: I have finished with the witness.

THE COURT: You had not finished before ~~re~~ recess.

DIRECT EXAMINATION CONTINUED

BY MR. TRAIN:

Q What was the first thing that awakened you the following morning? A Mr. De Camp waked me up.

Q Mr. De Camp woke you up? A Yes, sir.

Q And then you went downstairs? A I got dressed and stayed up-stairs until I was sent for.

Q Now, while you were upstairs did you see this object that I show you? A No, sir.

Q Did you see any of the jewelry in evidence here?

A Yes, sir.

Q Where was it? A Mr. Jim Shannon came to the house.

Q Wait a moment. Where did you see Jim Shannon? A In Mr. De Camp's house that morning.

Q Whereabouts in the house? A He came into my room.

Q While you were undressed? A While I was dressed.

Q When you were dressed? A Yes.

Q Did anyone come in with him? A No, sir.

1937-38

Q Was Mr. De Camp in the room? A Yes.

Q So there were two, De Camp and -- A Shannon.

Q De Camp and Shannon, the stepson of the defendant, were in the room? A Yes.

Q Had you asked Shannon to come there? A No, sir.

Q Did you have some talk together? A No, sir.

Q Was anything done with the jewelry? A Yes, sir.

Q What became of the jewelry? A Mr. De Camp gave it to Jim Shannon.

Q What did he give to him? A The jewelry.

Q Didn't you see him give him the watch? A Yes.

Q You saw him give him that? A Yes, sir.

Q These two cuff buttons (showing)? A Yes, sir.

Q Was the ring there? A No, sir.

Q The ring was not there? A No.

Q Or the stone? A No, sir.

Q That wasn't there? A No, sir.

Q But these objects that you mentioned or that I have mentioned, you say were given by De Camp to the son-in-law of the defendant? A Yes, sir.

Q Did Shannon say anything? A No, sir.

Q Had you ever seen Shannon at that house before? A No, sir.

Q How many times had you seen Shannon up to that time in your life? A I met him casually every day.

8

Q Do you know how he happened to go there to that room that morning? A No, sir.

Q Had De Camp been with you from the time that you got home that night until the moment that Shannon entered the room?

A Yes, sir.

Q Had De Camp gone out at all? A Not to my knowledge, no, sir.

Q And so far as you know, there was no intercourse between De Camp and Shannon until Shannon arrived on that morning?

A No, sir.

Q On that morning and received this jewelry? A No, sir.

Q Did you see what Shannon did with it? A Put it in his pocket.

Q And then where did he go? A He went out.

Q Do you know where he went, of your own knowledge? A No.

Q What was the next thing that happened? A Then De Camp went downstairs.

Q And what happened then? A And Mr. Skoog came upstairs and told me that Mr. Coleman wanted to see me.

Q He was a detective? A Yes, sir.

Q You went downstairs? A Yes, sir.

THE COURT: We have been over that.

MR. TRAIN: Yes, I know.

198
CASE 361

- 9
- Q And you were taken to the station house? A Yes, sir.
- Q Now, did you see the jury again at all? A No, sir.
- Q Have you seen that ring up to the present moment, until now? A Yes, sir.
- Q Where? A One of the District Attorney's men showed it to me.

CROSS EXAMINATION BY MR. FITZGERALD:

- Q How old are you? A Eighteen years.
- Q When were you eighteen years old? A Seventh of last December.
- Q Where do you live? A 2386 Broadway.
- Q Near what street is that? A Near 87th Street.
- Q Have you a father and mother? A Yes, sir.
- Q Both living? A Yes, sir.
- Q Do they live there? A Yes, sir.
- Q How long have they both lived there? A About four years.
- Q How long have you lived there? A About four years.
- Q Have you lived with them all the time that they have been there? A Yes, sir.
- Q When did you go to live there? A About four years ago; -- I don't know just when.
- Q And have you lived there continuously for the past four years? A No, sir; all but a year I have.

19

19

10

Q You lived with De Camp, did you not? A Yes, sir.

Q Did you live a year with De Camp? A No, sir.

Q How long did you live with De Camp? A Five days.

Q What five days were they? A The five days before I got arrested.

Q How long have you known De Camp? A About two weeks before this thing happened.

Q Where did you meet him? A In Mr. Hunsaker's pool parlor.

Q Did you go to live with him then after that? A I went to his house to stay with him for a few days, yes, sir.

Q On the night that Mr. Carroll was assaulted and robbed, you went to De Camp's house, did you not? A Yes, sir.

Q Where was that house? A I believe it is 2 or 4 West 78th Street; I don't know the exact number.

Q Did you go there with your father's consent and your mother's consent? A No, sir.

Q You went there of your own accord? A Yes, sir.

Q Didn't you tell anybody you were going to go there?

A No, sir.

Q Did your father or mother know where you were? A No, sir.

Q How long have you been out of the Catholic Proctectory?

A About two years.

198
361
CASE # 361

11

Q How long were you in the Protectory? A One year.

Q You went home with De Camp that night? A The night of the assault?

Q Yes. A Yes, sir.

Q How many rooms did De Camp occupy? A I believe it was eight.

Q How many people live in the flat? A Two; with myself three.

Q You were the third one? A Yes, sir.

Q Where was your ~~xxx~~ room? A It was on the west side of the house, with a window in the yard.

Q Was it a front room? A No, sir; a side room.

Q Was it the room next to the front room? A No, sir.

Q Was it the room next to that? A I believe it was.

Q Yes; the third room from the front? A Yes, sir.

Q And where was De Camp's room? A The second room from the front.

Q In the back parlor? A I don't understand you.

Q Was there a door opening from your room into De Camp's?

A Yes, sir.

Q Was there a door opening from De Camp's room into the parlor or front room? A Yes, sir.

Q Who lived with De Camp? A His mother.

Q Where was her room? A It was right on the right.

19

12

hand side of his room as you go in.

Q What time was it when you went in that morning, the morning of this assault? A I couldn't tell you just what time I went in.

Q Was it daylight? A No, sir,

Q Was it very late? A I couldn't tell you; I don't just remember.

Q Why can't you tell? A Because I forget, it is so long ago.

Q So long ago? A Yes, sir.

Q You have forgotten? A Yes, sir.

Q How do you happen to forget? A I couldn't tell you.

Q And can't you now remember it? A No, sir.

Q Can you get within four hours of it? A Yes, sir.

Q Can you come within a half an hour of it? A I don't believe I can. I might if I took a guess.

Q If you took a guess? A Yes, sir.

Q How are you on guessing; are you a good guesser?

Objected to. Objection sustained.

Q Have you done any guessing here to-day? A No, sir.

Q What Magistrate sent you to the Protectory?

MR. TRAIN: Objected to.

MR. FITZGERALD: I want to test his memory.

THE COURT: What Magistrate, is that the question?

CASE 361

13

MR. FITZGERALD: Yes.

THE COURT: Objection ~~is~~ overruled.

A Cornell, I believe.

BY MR. FITZGERALD:

Q In what Court? A 54th Street Court.

Q When you first went to live with De Camp, did you occupy a separate room? A Yes, sir.

Q And continued to occupy a separate room? A Yes, sir.

Q All the time that you were with him? A Yes.

Q And what floor did De Camp live on? A The top floor.

Q How many flights up? A Four flights up.

Q Did he have a night key? A Yes, sir.

Q We did not have to awaken his mother? A No, sir.

Q Was she awakened when you went in? A No, sir, not as I know of; I didn't see her.

Q Then you went to bed? A Yes, sir.

Q Will you swear that you did not see that stick (indicating)? A When?

Q Before you went to bed. A I did.

Q Yes.

MR. TRAIN: He did not say he did not.

BY MR. FITZGERALD:

Q Where did you see it? A On 8th Avenue and 79th Street.

1919

CASE # 361

14

Q Didn't you see it in the room? A No, sir.

Q Will you ~~xxx~~ swear you didn't see it in the room?

A Yes, sir.

Q Who had it on 8th Avenue? A De Camp.

Q What was he doing with it on 8th Avenue? A Wasn't doing nothing with it.

Q Carrying it in his hand? A No, sir.

Q Was it on the street? A In his pocket.

Q In his pocket? A Yes, sir.

Q Did you walk with him on 8th Avenue? A Yes, sir.

Q And you went directly home with him? A Yes, sir.

Q Did you see him throw the stick away? A No, sir.

Q Did you tell him to throw it away? A No, sir.

Q And you did not see it in his pocket after you left 8th Avenue? A No, sir.

Q And you didn't see it in his house? A Yes, sir.

Q You didn't see it in his house? A Yes, sir.

Q When? A I seen it in his house when he threw it behind a book-case.

Q Before or after he went there? A After he went there, when he got up the next morning.

Q When he got up next morning? A Yes, sir.

Q And you found it on the floor then and saw that stick (indicating) in De Camp's possession, and in his house, did you not? A Yes, sir.

198-77-361

15

Q How many times did you see that stick? A Once to my knowledge.

Q And when was that once? A When he threw it behind the book-case.

Q Why, didn't you see it on 8th Avenue? A In his house I only saw it once.

Q Where was the book-case? A Right as you come in, off the door.

Q How large a book-case is it? A

MR. TRAIN: Oh, I object to this as immaterial.

THE COURT: I will sustain the objection at this time.

MR. FITZGERALD: Exception.

Q Is there more than one book-case there?

MR. TRAIN: Objected to.

THE COURT: He may answer that.

A Only one.

BY MR. FITZGERALD:

Q How long have you known Jimmie Shannon? A For the past two years, I guess.

Q Does he live in that neighborhood? A Yes, sir.

Q Was he a friend of yours? A Not in particular; just know him to speak to him.

Q Were you a friend of his? A I couldn't tell you.

Q Why not? A I don't know how he took me at all.

CASE # 361

16

Q Who is Eddie Bowersmith, or Browersmith? A A saloon-keeper on 80th and 81st Streets, and Columbus Avenue.

Q Is he a friend of yours? A No, sir.

Q You have been in this pool room before that night?

A Yes, sir.

Q Will you describe the pool-room; what kind of a looking place is it? A It is a cellar that has four pool-tables in it; there is one room for four, and there is four racks for cues, and there is ~~is~~ ^{four} more racks for pools; and there is a stairs at the back of the place and at the front of the place.

Q Anything else in there? A That is all.

Q You spoke of a cigar counter? A Yes, sir.

Q Where is that cigar counter? A That is right beside the window as you go in.

Q At which table were you playing? A The first table.

Q Right near the cigar counter? A Yes, sir.

Q Is it a very roomy place? A There is quite a little room of it, yes.

Q There is room for four tables? A Yes, sir.

Q On your direct examination you stated that, while you were in Kennelly's, Mr. Munsaker suggested that they go out and play billiards? A Yes, sir.

19

17

Q. Don't you want to change that testimony? A. No, sir.

Q. Were there any billiard tables down there? A. No, sir.

Q. You stated on your direct examination that Mr. Hunsaker said, after you were playing for some time in the pool room -- A. Yes, sir.

Q. -- that "We ~~xxxx~~ had better go out; we have had pool enough, have played enough". A. Yes, sir.

Q. Didn't you also say that he was not playing pool at all? A. I did -- he played pool at the first part; when he first went in there he played a half a game, and then quit./

Q. How long were you in this place altogether? A. About three quarters of an hour.

Q. Well, when the time came to separate, what did you do? A. I went out.

Q. You went out? A. Yes, sir.

Q. Whom did you leave in the place when you went out? A. Mr. Hunsaker.

Q. And whom else? A. And a colored fellow he had there.

Q. When you went out, did you close the door? A. No, sir; Mr. Hunsaker was closing it, was locking it.

Q. Who went out first? You or Hunsaker? A. I did.

Q. Where was De Camp? A. De Camp had already gone out.

He followed Mr. Carroll.

19

Q Did Munsaker say anything to you when you were going out? A No, sir.

Q Did he tell you to wait for him? A No, sir.

Q Did he tell you that he was going to injure Mr. Carroll or do anything to him?

MR. TRAIN: Objected to, as the witness has already stated that he said nothing.

MR. FITZGERALD: That was when he was going out, but the evening was young.

THE COURT: He may answer it.

A What is that?

BY MR. FITZGERALD:

Q Read the question. (The Stenographer complies)

MR. TRAIN: Objected to unless the time and place are specified in the question.

THE COURT: He may answer.

MR. FITZGERALD: At any time during the evening?

A No, sir.

Q How deep down is that cellar? Do you know? A No, sir, I couldn't just tell you.

Q There are stairs leading from the street down to the cellar? A Yes, sir.

Q Iron stairs? A Iron supports, with wooden steps.

Q Well, when you ascended the stairs and came up on the

19

street, came up on Columbus Avenue, what did you do then?

A I looked up and down the Avenue, and couldn't see nobody, and I walked to the corner.

Q You walked where? A To the corner of 79th Street.

Q How far are the steps or the entrance to this pool-room, from 79th Street? A About 25 foot.

Q When you went down to the corner, then what took place?

A I saw Mr. Carroll get assaulted.

Q What did you see? A I saw his hat fall off, and Mr. De Camp hit him on top of the head, about eight times, I should judge.

Q Did you count the eight times? A No, sir.

Q You saw De Camp hit him on top of the head? A Yes, sir.

Q How many times did you see Hunsaker hit him? A Once.

Q Did Hunsaker come up the same steps you did? A Yes,

sir.

Q And came up on the street the same way you did? A Yes, sir.

Q And walked down from the corner the same way too?

A Yes, sir.

Q And passed you by? A Yes, sir.

Q And went up and assaulted Mr. Carroll? A Yes, sir.

Q Did he say anything to you when he passed you by?

A No, sir.

1917
CASE # 361

Q. Didn't he stop for a second to see what was going on?

A. Not to my knowledge, no, sir.

Q. Whereabouts at the corner was he standing at that time? A. Right on the corner of the dry goods store.

Q. And how far away were De Camp and Mr. Carroll? A. About 125 feet.

Q. How do you estimate the 125 feet? A. About that, I say.

Q. Why do you say about that? A. Because it looked to be about that.

Q. Didn't Hunsaker tell you to wait a minute? A. No, sir.

Q. Didn't he ask you, "What is going on here?" A. No, sir.

Q. He went up to where this quarrel was going on? A. Yes, sir.

Q. And put his hand where? A. In his back pocket.

Q. How long did he keep it there? A. About a second.

Q. About a second? A. Yes, sir.

Q. Then he struck? A. Just time enough to get it out; yes, sir.

Q. Did you make any outcry? A. No, sir.

Q. Do you know Mrs. Hunsaker, the wife of Mr. Hunsaker?

A. Yes, sir.

Q. Do you remember talking with her in the 54th Street Court? A. Yes, sir.

Q. Didn't you tell her at that time that Mr. Hunsaker had

198
CASE 77361

nothing to do with the matter whatever? A No, sir.

MR. TRAIN: When was this?

MR. FITZGERALD: In the 54th Street Court.

MR. TRAIN: But when?

MR. FITZGERALD: At the time of the arraignment.

Q You never did? A No.

Q Did you have any other conversation with her? A No, sir.

Q Did De Kamp tell you at any time that he was going to injure Mr. Carroll or do anything to him? A No, sir.

Q You stated on your direct examination that you saw De Kamp walking with Mr. Carroll. How far away were they from you when you saw them walking? A They had just finished walking when I saw them.

Q Did you or did you not see them walking? A I seen them at the time walking two or three feet. They didn't walk to no extent.

Q How far about did you see them walking? A About two steps.

Q Two steps? A Yes, sir.

Q Did you count the steps? A No, sir.

Q Is that a guess? A No, sir.

Q How many blows did Mr. Carroll receive before Hunsaker passed you by on the corner? A About two.

CASE 361

22

Q Two? A Yes, sir.

Q Hunsaker ran between you and these two men, did he not? A Yes, sir.

Q He didn't interfere with your perception of the two men, did he? A I don't understand it.

Q He didn't get between your eyes and these men, did he, at any time? A I don't thoroughly understand the question

Q What in the question don't you understand? A Getting between my eyes and these two men.

Q You don't understand what that means?

MR. TRAIN: Objected to.

A No, sir.

MR. TRAIN: Wait a minute.

MR. FITZGERALD: I will try to make it clear to you if you don't understand.

THE COURT: Proceed.

BY MR. FITZGERALD:

Q Did not Mr. Hunsaker, in running from you towards De Camp and Carroll, obstruct your view of De Camp and Carroll?

A No, sir.

Q He gave you good room? A Yes.

Q Whereabouts on the sidewalk did you see De Camp and Carroll stop? A In the middle of the street, the middle of the block, on the sidewalk.

1937-3013

23

Q And you were standing at the corner of the house?

A Yes, sir.

Q And they were 125 feet away? A Yes, sir.

Q And Hunsaker went directly to them? A Yes, sir.

Q How long did it take Hunsaker to get from where you were to where they were? A I couldn't tell you just how long it took him. I didn't time him.

Q You didn't time him? A No, sir.

Q Don't you think that was an oversight on your part?

MR. TRAIN: Objected to.

A No, sir.

MR. TRAIN: When there is an objection, wait until the Court rules.

THE COURT: Do I understand that objection to be passed upon?

MR. TRAIN: No, the question was answered.

THE COURT: In other cases where I have not ruled, it has been because Mr. Fitzgerald has intimated he would withdraw the question.

MR. FITZGERALD: Yes; I do in this case.

THE COURT: Very good.

BY MR. FITZGERALD:

Q You say you saw Hunsaker take a pistol or a gun -- you mean a pistol, do you not?

CASE 361

MR. TRAIN: He said a pistol.

MR. FITZGERALD: I have got what he said, "I saw a gun".

MR. TRAIN: He afterwards said "a pistol".

BY MR. FITZGERALD:

Q You saw him take a pistol from the cigar case?

A Yes, sir.

Q Did he go behind the counter to take it out? A Yes, sir.

Q Did you see the pistol in the cigar case before he took it out? A Yes, sir.

Q Did you see the pocket he put it in? A Yes, sir.

Q Which pocket? A The back pocket.

Q On his right hand side or left hand side? A Right hand side.

Q The same pocket that you saw him reaching to when you saw him hit Carroll? A Yes, sir.

Q How far had you run away before you saw either Hunsaker or De Camp? A I should judge about three blocks.

Q During the assault did you hear De Camp say anything? A No, sir.

Q Did you hear Hunsaker say anything? A No, sir.

Q Did you hear Carroll say anything? A No, sir.

Q Where had you gone, do you say, when you next saw these fellows, Hunsaker and De Camp? A 81st Street and 8th Ave-

1937
CASE 361

25

nue.

Q That is on the Park -- near the Park? A It ain't in the Park. It is on Eighth Avenue, right next to the Park.

Q Isn't it near the Park wall? A About ~~50~~ 50 foot.

Q Were you on that side of the street? A No, sir.

Q Where were you? A I was on the north-west corner, or south-west corner.

Q The south-west corner? A Yes, sir.

Q Of 81st Street and 8th Avenue? A Yes, sir.

Q And you saw this 50 foot from the Park wall? A Yes, sir, about that.

Q Is that your best judgment of that distance? A Yes, sir.

Q They came up to you at 81st Street and 8th Avenue?

A Yes.

Q Were you standing still at that time? A Yes.

Q Which way did they come; over which street? A They came right through Manhattan Square Park.

Q Did they speak to you? A Yes, sir.

Q Who spoke first? A I can't just remember who spoke the first.

Q Why can't you remember?

MR. TRAIN: Objected to. Why do you suppose, Mr. Fitzgerald?

1967
CASE 77361

THE COURT: Objection sustained.

BY MR. FITZGERALD:

Q Have you forgotten that since dinner-time? A No, sir.

Q Didn't you say, in answer to the District Attorney, that when De Camp and Hunsaker came up, De Camp spoke first?

A I don't remember.

Q You don't remember stating that to the District Attorney?

A No, sir.

BY THE COURT:

Q Well, what is the fact? Do you know who spoke first?

A No, sir, I don't remember.

BY MR. FITZGERALD:

Q Well, if you did say to the District Attorney that De Camp spoke first, was that true or untrue?

MR. TRAIN: Objected to.

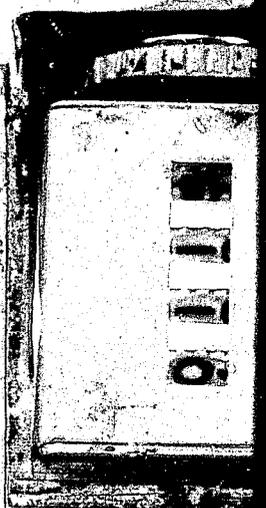
THE COURT: He may answer.

A I don't remember stating it.

BY MR. FITZGERALD: I didn't ask you if you remembered it.

I say, if you did state to the District Attorney that De Camp spoke first, was that true or untrue? A I don't know whether it was or not.

Q Well, if you said to the District Attorney that De Camp spoke first, do you now wish to say to the jury that you don't know whether that was true or not? A I don't remember saying it.



198 77 361

27

Q Who had the property, Mr. Carroll's property, when they came up to you? A They both had some.

Q What did De Camp have? A A watch and chain, a fob, and a pair of cuff buttons.

Q What did Hunsaker have? A A diamond ring.

Q You remember that very distinctly, do you not?

A Yes, sir.

Q Will you swear that De Camp did not receive the cuff-buttons from you? A Yes, sir.

MR. TRAIN: Don't scare him, Mr. Fitzgerald.

MR. FITZGERALD: I can't scare this man.

MR. TRAIN: No, I don't think you can.

THE COURT: Go right on. Do not talk between yourselves, gentlemen. Proceed.

BY MR. FITZGERALD:

Q What was done when they came up to you? A They showed each other what they got, and showed me what they got.

Q Why did you stop on the corner of 81st Street and 8th Avenue? A I thought I seen a policeman when I looked back, coming through the Park, which I found out later was De Camp.

Q It was De Camp? A Or Hunsaker; I don't know which.

Q Didn't you swear this morning that the first man you saw coming towards you was Hunsaker? A (No answer).

Q What is the answer? A (No answer).

BY THE COURT:

CASE # 361

28 BY THE COURT:

Did you so swear? A I don't remember swearing to it, no, sir.

Q What is the fact? Who was the first man whom you saw?

A Well, I couldn't really tell.

Q - You don't remember now whether it was De Camp or Hunsaker? A No, sir; I know it was one or the other.

Q Did the other one subsequently join you? A Yes.

Q So the three of you were together after the alleged robbery, is that right? A Yes, sir.

BY MR. FITZGERALD:

Q Well, if you swore this morning that the first one that came near you after the robbery, while you ~~stood~~^{stood} on 81st Street and 8th Avenue was Hunsaker, is that true or not?

MR. TRAIN: Objected to. He can ask him what the fact is, but he cannot ask him a question predicated--

THE COURT: I will sustain the objection. He says he doesn't remember whether he swore ~~xx~~ to it or not, and he doesn't remember what the fact is. I just asked him that question.

MR. FITZGERALD: Then I would like to ask him this question, if your Honor please:

Q If the record states --

MR. TRAIN: This question is just as objectionable as the other.

CASE # 361

MR. FITZGERALD: You have not heard the question.

MR. TRAIN: It begins in an objectionable manner--
hypothetical.

THE COURT: Wait, Mr. Train, until I hear the
question.

BY THE COURT:

Q Do not answer this question until I pass upon it.

A No, sir.

BY MR. FITZGERALD:

Q If the record states that you testified that the first
one you saw when you came to 81st Street and 8th Avenue was
Hunsaker, is it true or untrue?

Objected to. Objection sustained. Exception.

MR. FITZGERALD: If your Honor please, this man is an
accomplice. It seemsto me --

MR. TRAIN: I object.

THE COURT: I have allowed you the latitude of a
cross examination, but you are now asking for his
opinion on a matter that should go to the jury, and he
says that he does not remember the fact at all.

BY MR. FITZGERALD:

Q Do you remember whether you stated this morning,
before recess, that the first one to get near you after this
robbery was Hunsaker? A No, sir.

193
CASE 77361

30

Q You don't remember stating that? A No, sir.

Q How long did you wait on 8th Avenue and 81st Street before you saw Hunsaker or De Camp come up to you? A A couple of minutes.

Q How far away from you were they when you first saw them? A About a block and a half.

Q Do you mean a long block or an avenue block? A An avenue block.

Q Were they coming through the Park? A Yes, sir.

Q When did you first notice that they were following you? A When I got to 81st Street and 3th Avenue and looked around.

Q Was that the first time that you noticed that they were following you? A Yes, sir.

Q They were then a block and a half away? A Yes, sir.

Q Had you run all the way? A Yes, sir.

Q And you left the scene at 79th Street and Columbus Avenue immediately after ~~the~~ ~~xxxx~~ you saw Hunsaker strike Carroll? A And Mr. Carroll fall, yes, sir.

Q After they caught up with you, did they give you any property? A No, sir.

Q What did they say to you? A Didn't say nothing to me.

Q What did you do? A They were discussing it between themselves, what they would do with it, and where they would

1961

31

meet.

Q In your presence? A Yes.

Q You heard every word they said? A I might and might not; I don't remember hearing it.

Q Why did they hunt you up after the robbery?

MR. TRAIN: Objected to as calling for the ~~mix~~ operation of the witness's mind.

THE COURT: Objection sustained.

BY MR. FITZGERALD:

Q Was there any agreement between yourself and De Camp and Hunsaker? A No, sir.

Q Wait a moment; don't guess so quickly. A I ain't guessing.

MR. TRAIN: He says there was no agreement.

BY MR. FITZGERALD:

Q Was there any agreement between yourself and Hunsaker and De Camp as to where you should meet? A Not to my knowledge.

Q Had you been around with De Camp that day? A No, sir.

Q What time did you get up that day, the day preceding the robbery? A About four o'clock.

Q In the morning? A In the afternoon.

Q Did you sleep all day? A Yes, sir.

Q Why? A I had nothing else to do.

1937-7-261

32

Q weren't you working? A I was not working at that time.

Q When did you work last? A About a week before that--
about two weeks before that thing happened.

Q Whom did you work for? A Thomas Burns.

Q Where? A 26th Street and Park Avenue, a plumbing concern

Q How long did you work for him? A About a month and a
half.

Q What did you do? A I was a plumber's helper.

Q Did you pay your board at De Camp's?

MR. TRAIN: Objected to.

THE COURT: Objection sustained.

MR. TRAIN: I withdraw my objection.

THE COURT: Read the question. (The stenographer
complies) Yes, there is no objection to his answering
that. I did not hear the question aright.

A No, sir, I wasn't living there long enough.

BY MR. FITZGERALD:

Q Did you have any agreement to pay him any board?

A No, sir.

Q You were not working when you went there, were you?

A No, sir.

Q Where did you work before you worked for Mr. Burns?

A At Lecettes & Murphy's.

Q Where is their place of business? A 81st Street

1937
CASE # 361

33

and 32nd Street and Broadway.

Q What did you do there? A Plumber shop.

Q How long were you there? A I don't remember just how long I was there.

Q Oh, try to remember how long you were there. A I don't remember.

Q How much money did you make while you were there?

MR. TRAIN: Objected to.

MR. FITZGERALD: I want to help him remember.

MR. TRAIN: You won't help him by asking that question.

THE COURT: I will sustain the objection.

MR. FITZGERALD: We except.

Q You can't tell me how long you worked for Lecette & Murphy?

MR. TRAIN: Objected to; he has already answered that. That is the third time.

(No ruling)

BY MR. FITZGERALD:

Q Before you worked for Lecette & Murphy, where did you work? A (No answer).

BY THE COURT:

Q Answer the question. A I want to think; I don't just remember right in my mind. (A pause): For Malcolm Taylor.

91212
CASE # 361

34

Q Can't you tell how long you worked for him? A I can't just remember.

Q How long do you think you worked for him? A I don't remember. I was working for him twice. The last time I worked for him I believe I worked for six months.

Q When was that? A Before I went to work with Lecette & Murphy.

Q When was that? A I can't remember just when it was.

Q Are you living with your father now? A Yes, sir.
of the

Q Can't you tell any conversation ~~was~~ which took place between these men after they came up to you in the dark?

A No, sir, I don't remember.

Q You knew this morning, did you not? A (No answer).

Q Didn't you say this morning that Hunsaker said he wanted the diamond for his wife, and he wanted one ~~or~~ half of what the property would bring? A That is all that I remember.

Q Have you any objection to stating that again? A No, sir.

Q Then why don't you state it when I ask you?

MR. TRAIN: He will state it. Do you want it stated again?

MR. FITZGERALD: I want him to answer the question.

BY MR. TRAIN:

Q Answer the question. A (No answer).

193
361
CASE

35

BY THE COURT:

Q Answer the question. A He asked me so many times, Judge, that I don't remember what question he means half the time.

Q Do you know anything more that was said upon this occasion than what you have testified to? A No, sir.

BY MR. FITZGERALD:

Q That is all that you remember? A Yes, sir.

Q You refused his offer when he asked you to testify in his behalf, did you not? A Yes, sir.

Q You say that he was always picking at you, so as to make you state a certain conversation; is that true? A Yes, sir.

Q Won't you state to us once more what he said to you.

A I don't remember just what he said.

Q Can't you remember just what you said this morning?

A I don't remember just what I said.

Q Don't tax yourself to try and remember.

MR. TRAIN: Do you withdraw your question?

MR. FITZGERALD: No, I won't withdraw the question.

MR. TRAIN: Then let him tax himself to answer it.

BY MR. FITZGERALD:

Q Now I ask you to state once more what you said this morning.

MR. TRAIN: I object to that as a general question

198-361
CASE 361

that cannot be answered.

THE COURT: I sustain the objection to that.

MR. FITZGERALD: I asked the witness to repeat the conversation, between himself and the defendant at the Bar, concerning the testimony which he was to give at this trial, and which he testified to this morning.

THE WITNESS: I remember the one fact that it was always to try and get him out of the case altogether, to state that he had nothing whatever to do with it, but I don't remember just the words he said to me.

Q Did he know that you were going to testify in this case?

Objected to. Objection overruled.

MR. TRAIN: How does the witness know?

THE COURT: I do not know. He may know that he did know it.

If he did, he may give his reasons.

BY THE COURT:

Q Do you know whether or not the defendant knew you were going to testify? A I couldn't tell you.

BY MR. FITZGERALD:

Q Did you know that you were going to testify in this case?

MR. TRAIN: When?

109

196

A No, sir.

MR. TRAIN: wait a minute.

MR. FITZGERALD: At the time of these conversations.

THE WITNESS: I was not sure of it .

Q How did you come to testify in this case? A Because I was a witness in the case.

Q How did you come to be a witness in the case? A When I told what I knew.

Q Whom did you tell it to? A Told it to the Court.

Q Did you tell it to anybody else? A To the Grand Jury.

Q Who brought you down before the Grand Jury? A I was summonsed.

Q Who brought you down?

MR. TRAIN: Objected to as immaterial who brought him down.

BY MR. FITZGERALD:

Q Were you on bail ? A Yes, sir.

BY THE COURT:

Q Were you out on bail or locked up when you went before the Grand Jury? A Out on bail.

BY MR. FITZGERALD:

Q Did you have any conversation with the District Attorney?

MR. TRAIN: when?

11216

CASE # 161

Q (Continuing) Or any of his associates?

MR. TRAIN: Well, when?

MR. FITZGERALD: Don't get excited.

MR. TRAIN: Thank you for your admonition not to get excited. I do not feel excited. I want you to specify the time and place when you ask my witness a question. I object to the question as being too vague.

THE COURT: Gentlemen, you get in the habit of talking among yourselves. I have occasion to say it every day, when my saying it one day should be sufficient. Mr. Fitzgerald, do not talk to Mr. Train, but address the Court. I sustain the objection at this time. You may proceed.

MR. FITZGERALD: We except.

Q Will you tell me the name of any person that you told this story to before you came here to-day?

THE COURT: Wait a moment. You may repeat the question to which the objection was sustained, if you care to direct the witness's attention to the particular time to which you refer.

BY MR. FITZGERALD:

Q What are you laughing at? A I am not laughing.

MR. FITZGERALD: I think, if your Honor please, there is a question before the Court.

Will the Stenographer read it?

CASE 361

R 210

39

THE STENOGRAPHER: Your previous question, to which the Court refers was: "Did you have any conversation with the District Attorney or any of his associates?" Your last question was "Will you tell me the name of any person that you told this story to before you came here to-day?"

BY THE COURT:

Q You may answer that question. A I don't know anybody's name that I told it to, Judge, Your Honor.

BY MR. FITZGERALD:

Q Did you tell it to anybody connected with the District Attorney's office? A I did.

Q Did you tell it to Mr. Train? A No, sir.

Q What was said to you when you told that story?

MR. TRAIN: I object to that. I can't conceive-- if he wants to bring out that he has been promised money or a place in this office, or a position with the City Government or something --

THE COURT: I will sustain the objection at this time.

MR. FITZGERALD: Exception.

Q Were you told by the District Attorney, or any person in his office, at the time you made this statement that you would be granted immunity? A No, sir.

MR. TRAIN: He has been discharged by the Grand Jury.

CASE # 361

112

40

BY MR. FITZGERAID:

Q Were you told at the time that the District Attorney would ask for your discharge by the Grand Jury? A No, sir.

Q were you told at the time that the crime which was alleged to have been committed was punishable by 20 years' imprisonment? A I don't understand the question.

Q Did anybody tell you that the punishment for this crime was twenty years in prison? A No, sir.

Q You did not know that? A No, sir.

Q What did the District Attorney or any of his officers say when you told this story to them? A That anything I said could be brought against me if they wished.

Q They told you that anything you said could be brought against you? A If they wished.

Q Did they tell you that they would save you from punishment if you made any statement? A No, sir.

Q They have never promised you any reward at all? A No, sir.

Q And you did not know that the indictment against you was dismissed? A (No answer).

BY THE COURT:

Q Do you know anything about it? A No, sir.

BY MR. FITZGERAID:

Q Do you know whether you are on bail now or what -- or un-

9129

CASE 361

41

der arrest? A I am out on bail, I should judge.

Q Were you never told that your bail was discharged?

A No, sir.

Q You say that when you saw the jewelry in De Camp's house that the ring was not among the jewels? A Yes, sir.

Q You remember all the property, do you not? A Yes, sir.

Q You don't forget that? A No, sir.

Q And you distinctly recollect that the ring was not among -- A I don't remember seeing it.

Q Then it might be there, only you don't remember seeing it. A I didn't see it.

Q Why didn't you see it?

MR. TRAIN: I object.

(No ruling).

A If it was there I would have seen it, I suppose.

BY MR. FITZGERALD:

Q Mr. Carroll said that this was a foggy night; is that true?

THE COURT: What kind of a night?

MR. FITZGERALD: Foggy; there was a fog.

MR. TRAIN: I object to the use of the word "true".

BY THE COURT:

Q What kind of a night was it, witness? A I don't

1936
CASE # 361

42

remember.

Q Was it a stormy night or not? A I don't think it was; no, sir.

Q You don't remember? A No, sir.

BY MR. FITZGERALD:

Q Did you drink anything that night? A I did.

Q Where? A Up in Kennelly's.

Q Did you drink anything before you saw Mr. Carroll?

A Yes, sir.

Q Mr. De Camp had a pistol that night? A Yes, sir.

Q Did you see it? A Yes, sir.

Q Where? A Going between Amsterdam and Columbus Avenues, and 80th Street

Q Before Mr. Carroll was assaulted? A Yes, sir.

Q Did you hear Mr. Hunsaker say anything to Mr. Carroll when he went out? A No, sir.

Q Do you remember whether he did or not? A No, sir.

Q Do you remember De Camp telling you that he would meet you at the drug store--

MR. TRAIN: I object; wait a minute.

MR. FITZGERALD: You wait a moment.

MR. TRAIN: Haven't you finished with the question?

MR. FITZGERALD: No.

MR. TRAIN: Go on and finish it.

1937
CASE 77361

THE COURT: Proceed.

BY MR. FITZGERALD:

Q Do you remember De Camp telling you that he would meet you at the drug store when he went out of the pool room after Mr. Carroll?

MR. TRAIN: No objection.

MR. FITZGERALD: Surely!

A I don't remember.

Q You don't remember that? A No, sir.

Q Mr. Clabby, didn't you, when you got to the corner of 79th Street and Columbus Avenue, seeing De Camp and Carroll together, go down to where they were? A I didn't have time to.

Q I didn't ask you that? Now answer the question. Did you or did you not go down to where De Camp and Mr. Carroll were? A No, sir.

Q You did not? A No, sir.

Q Did you not go down when Mr. Carroll was on the ground and put your knees across his chest, and wrench from his sleeves the buttons? A (The witness laughs).

Q Don't smile, but answer. A No, sir.

Q Did De Camp take the buttons out of his sleeves?

A I couldn't tell you.

Q Why not? A I don't know.

CASE 77-361

44

Q You remember Jimmie Shannon coming to the house the next morning? A Yes, sir.

Q Were you up? A Yes, sir.

Q What time was it? A I don't just remember.

Q Where were you? A In the room in De Camp's house.

Q In De Camp's own room? A In my room.

Q Where was De Camp? A In my room.

Q Where was the property stolen from Mr. Carroll? A In Mr. De Camp's clothes.

Q In his pocket? A Yes, sir.

Q What conversation did you have then about this matter?

A Didn't have any.

Q Didn't you speak about it at all? A No, sir.

Q Never said a word about it? A No, sir.

Q Can't you tell us any conversation at all, from the time that you separated from Hunsaker, up to the time that Jim Shannon came? A No, sir.

Q What did De Camp say to Jimmie Shannon? A He gave him the stuff and told him to take it and give it back to him as soon as he came back from 68th Street.

Q What is "the stuff"? A The jewelry.

Q How did he know he was going to 68th Street? A That is more than I know.

Q You were there when Jimmie Shannon came in? A Yes.

CASE 361

45

Q And you don't know how it came that De Camp knew he was going to 68th Street? A Jimmie Shannon didn't tell me, no, sir.

Q What did Jimmie Shannon say when he came in? A He went over to Rob De Camp and spoke to him. I don't know what he said.

Q Did he whisper to him? A Spoke lowly; I didn't hear him.

Q Didn't you ask him where he was going? A No, sir.

Q Where were you arrested? A When I got to 68th Street.

Q When was that? A That morning.

Q How long after De Camp left the house? A We both went down together with Mr. Coleman.

Q Oh, you both went down with Jimmie Shannon? A No, sir.

MR. TRAIN: No, he said "with Mr. Coleman."

BY MR. FITZGERALD:

Q Well, Jimmie Shannon was there? A Not going down, no, sir.

Q Did Shannon stay in the house? A No, sir.

Q You went down with Coleman to the station house?

A Yes, sir.

Q Are you a son of Burt Clabby, the ex-policeman?

A Yes, sir.

0131
CASE # 361

46

Q Is he in Court here to-day, your father? A No, sir.

MR. TRAIN: He is not here.

MR. FITZGERALD: He is a live and well. That is all.

MR. TRAIN: I am glad to know that.

THE COURT: Gentlemen, you have heard my request, that you do not talk among yourselves, and you pay no attention to it whatever. Now, I do not want to have to repeat my admonition. Listen to the request of the Court and respect it.

BY MR. FITZGERALD:

Q Then you are willing to swear, that so far as you are concerned, you never laid hands on Mr. Carroll, that you did not take any jewelry from him personally; is that true? A Yes, sir.

Q Did you have any of this jewelry in your hands after this robbery? A No, sir.

Q Why did you go down to De Camp's house that night?

A I was afraid to do otherwise.

Q Why were you afraid of him? A He threatened --

MR. TRAIN: He didn't say he was afraid of him. He said he was afraid to do otherwise.

BY MR. FITZGERALD:

Q What were you afraid of? A Well, he had threatened

WITNESSES
0134
CASE # 361

47

to shoot me if I went away from him or said anything to anybody.

Q Did Hunsaker threaten to shoot you? A Not to my knowledge, no, sir.

Q And so you went down to his house and went in the same house with him, in the same rooms with him? A Yes.

Q And slept there in his house all night? A Yes, sir; I didn't sleep very much.

Q What time were you awakened? A I couldn't tell you; there was no clock in the room.

Q There was no clock in the room? A No, sir.

Q Well, you did not get in until very late, did you?

A No, sir.

Q So you couldn't have slept very much anyway? A No, sir.

Q You didn't sleep as much as you slept the day before, did you? A No, sir, I did not sleep any, in fact.

Q Did De Camp sleep until four o'clock the day before?

A I don't think so; I don't know.

Q Do you know Miss Doran? A No, sir.

Q Do you know the girl that works at Mr. Hunsaker's house?

A I knew her to speak to, yes, sir.

Q Do you know her name? A No, sir.

Q Well, did you tell her at any time --

193
013
CASE 77-361

48

MR. TRAIN: Wait a moment.

Q (Continuing) --at 54th Street, in the Court House when you were arraigned, that Mr. Hunsaker had nothing to do with this case? A No, sir.

Q You did not make that statement to her? A No, sir.

Q Do you know a young man named Barnes? A Yes, sir.

Q Didn't you tell Mr. Barnes that Hunsaker had nothing to do with this case?

MR. TRAIN: Where and when? I object to the question.

MR. FITZGERALD: The same place where they most do congregate.

THE COURT: He may answer it.

MR. TRAIN: I think the time and place ought to be specified.

THE COURT: He may say first, and then can go into the definite details, if need be.

A No, sir.

BY MR. FITZGERALD:

Q Never told him? A No, sir.

Q Didn't you tell Jirmie Shannon that Hunsaker had nothing to do with this case? A No, sir.

RE-DIRECT EXAMINATION BY MR. TRAIN:

Q Now you go back a bit -- I won't keep you long. When

1937
CASE 361

49

you went out of the pool room, you said something about seeing the defendant close the door back of you? A Yes.

Q What did you see him do to the door; did you see him lock it, or did you merely see him close it? A I seen him close it, and he stayed there as though he was locking it.

Q Hesitate there a moment? A Yes.

Q And you at that time were going up the steps, or had you reached the top of the steps? A I was going up the steps.

Q Now you were asked about some conversation in the 54th Street Police Court at the time of your arraignment with Mr. Hunsaker. Did you, in fact, speak to Mrs. Hunsaker at that time, to your knowledge? A Spoke to her, yes.

Q Do you remember what you said to her; do you remember what you talked about? A Told her that I was sorry, and she told me she was sorry I got in there; and we didn't say nothing about the case at all. Never went into any details with her.

Q I want to know how far you think it is from where you are sitting to the end of the room, to get an idea of what your 125 feet is.

MR. FITZGERALD: I object, if your Honor please.

The question is, how far it is from where the witness sits to the end of the room, in order to get an idea of what

196
CASE # 361

50

125 feet distance is. He has already testified to what 50 feet is, namely the width of 8th Avenue.

THE WITNESS: From the width of the Park to the 8th Avenue Wall.

THE COURT: I will sustain the objection at this time.

BY MR. TRAIN:

Q Now we will revert to 8th Avenue then. Will you state what is 50 feet in your opinion, in regard to 8th Avenue? What did you mean when you said that 8th Avenue, if you did say it, was 50 feet wide; what did you say about that? A I said that where I was standing, right on the corner of 8th Avenue, not on the curb-stone, but on the corner, over to the 8th Avenue wall -- which the lawyer said to me - stated to me -- was about 50 feet.

Q That is your idea? A Yes, sir.

BY THE FIRST JUROR:

Q From the Central Park wall? A Yes.

BY MR. TRAIN:

Q What is the wall? A Central Park wall.

Q Oh, the wall of Central Park? A Yes.

Q Now you have spoken of a pistol which the defendant took out, from the cigar case and put it in his pocket. Had you ever seen that pistol there, in or out of that cigar-case

CASE # 361

51

before that night? A Yes, sir.

Q you have seen it there before? A Yes, sir.

Q Now, when the defendant put that pistol in his pocket, did you observe whether it was loaded or not? A No, sir.

Q Didn't notice? A No, sir.

Q Now you say that you saw the defendant strike Carroll and that Carroll fell? A Yes, sir.

Q Did you observe whether, after Carroll ~~was~~ fell, he lay still or moved any? A No, sir.

Q You didn't observe that? A No, sir.

Q You turned and ran? A Yes, sir.

Q Now do you remember when you did come down to this office and make a statement; was it before you appeared before the Grand Jury; do you remember seeing Mr. Perkins? A Yes, sir.

Q Now, do you remember Mr. Perkins -- is that your signature (handing paper to witness)? Just look at that paper. A (After examining) A Yes, sir.

Q Do you remember signing that? A Yes, sir.

Q Before Mr. Perkins? A Yes, sir.

Q Yes; and Captain Kear -- wasn't Captain Kear there in Mr. Perkins' room? A Yes./

MR. TRAIN: Now we offer this in evidence, may it please your Honor.

MR. FITZGERALD: This is --

MR. TRAIN: What was said to Mr. Clabby before the testimony was taken?

MR. FITZGERAID: I certainly object, if your Honor please, to it, unless all the conversation that was had between the District Attorney and this young man is put in evidence.

THE COURT: I sustain the objection.

MR. TRAIN: If your ~~HONOR~~ Honor please, the counsel for the defendant has asked certain questions as to what was said to this witness before he made a statement, which was afterward --

THE COURT: And you want to corroborate him?

MR. TRAIN: I want to show exactly what was said by production here of the minutes, questions and answers.

THE COURT: I will sustain the objection.

BY MR. TRAIN:

Q Do you remember Mr. Perkins asking you these questions:

"Q You understand we have not sent for you to come here? A. Yes, sir. Q. Voluntarily you want to

make a statement of the facts? A. Yes, sir. Q.

And anything you say will be used against you if we want to use it against you, and we are not making you any

promise of any sort; you understand that? A. Yes, sir.

1937
CASE # 361

Q. You do not have to talk to us if you don't want to.

A. Yes, sir. Q. We can't compel you to say anything

to us, and we won't try to compel you to say anything.

Do you understand that? A. Yes, sir. Q. Do you wish

to go ahead and make a statement? " "

MR. FITZGERALD: I object to this line of procedure. All these statements were not made in the presence of the defendant, and he cannot be bound by any conversations between Mr. Perkins and the witness. We have not the chance to cross examine.

THE COURT: I cannot sustain any objection to a line of examination. The questions have been asked, and have not been objected to. You may proceed, Mr. Train. When you object to a question, Mr. Fitzgerald, then I have something before me on which I may properly make a ruling.

MR. FITZGERALD: Will your Honor make a ruling upon this question? I object to the introduction of these questions and answers.

THE COURT: Is that objected to?

MR. FITZGERALD: I object.

(No ruling).

BY MR. TRAIN:

Q Do you remember this question being asked you, and your

54

answer: "Q. Do you wish to go ahead and make a statement of the facts in the case of the People against Robert B. de Camp? " And your answer, "yes, sir"?

MR. FITZGERALD: I object on the ground --

THE COURT: I will sustain the objection.

MR. TRAIN: Mr. Fitzgerald went into the whole thing himself and asked this witness what was said. Certainly I can recall --

THE COURT: He asked him something that was stated, and some answer; but I think the matter has been gone into sufficiently; and you are attempting to refresh his memory.

BY MR. TRAIN:

Q Then you were notified that anything you said might be used against you?

THE COURT: You said that.

BY MR. TRAIN:

Q And then you made a statement which you repeated before the Grand Jury? A Yes, sir.

Q And you have repeated that statement here to-day?

A Yes, sir.

RE-CROSS EXAMINATION BY MR. FITZGERALD:

Q When the pool room was locked up, who locked it up?

A. Mr. Hunsaker.

1961

55

Q You are sure of that? A I ain't sure of it. It seems as though he did. He stayed there a minute or two.

Q Is that the best answer now that you can give?

A Yes, sir.

Q You don't know who locked up, do you?

MR. TRAIN: He says he does not.

MR. FITZGERALD: He said he did, a minute ago.

THE COURT: No, no!

BY MR. FITZGERALD:

Q Now tell us the conversation you had with Mrs. Hunsaker in the Tombs? A I don't remember it.

Q You don't remember it? A In the Tombs?

Q Yes? A I never was in the Tombs.

Q In the prison uptown? A In the 54th Street Court?

Q Yes. A I don't remember. It had nothing to do with this case.

J O H N A . C O L E M A N , called as a witness on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q What precinct are you attached to? A The 26th Precinct.

Q You were so attached on the 4th of March? A Yes, sir.

Q Now, were you detailed for the purpose of arresting certain purposes? A Yes, sir.

1967
CASE 2061

56

Q When did you first get your orders? A On the morning of March 4th.

Q About what time? A About 9 a. m.

Q Who gave them to you? A Captain Kear.

Q Where; in the station house? A Yes, sir.

Q What did you do in pursuance of those orders? A I went up to Mr. -- I was told there was an assault and robbery committed.

THE COURT: Never mind what you were told. Tell us what you did.

BY MR. TRAIN:

Q Where did you go? A I went to Mr. Carroll's house in 61st Street.

Q Did you see Mr. Carroll? A Yes.

Q What was his condition? A He was laying in bed, wrapped in bundles.

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

Q And in consequence of that talk, where did you go?
A I went to a pool room there.

Q Hunsaker's pool room? A Hunsaker's pool room.

Q Who was there? A Hunsaker and Captain Kear was talking to him.

Q Did you have any conversation with the defendant Hunsaker? A No, not then.

Q What did you do then? A I stayed there awhile,

57

during the time the Captain was talking to him; and after he got through he told us - I overheard one part of the conversation, where he told that De Camp and Clabby were there with him.

Q Who is "he"? A Mr. Hunsaker.

Q The defendant? A The defendant.

Q You heard the defendant tell the Captain that De Camp and Clabby were there? A Were there with him the night before.

Q Then did you hear anything else? A No; that is about all.

Q And then what did you do? A The Captain told me to go to De Camp's house and try to get De Camp.

Q Did you go to De Camp's house? A Yes; I went up to his house and knocked at the door, and his mother said he was not at home; and I went downstairs, and when I got to the sidewalk I met Jimmie Shannon coming over.

Q Where was he coming from? A Across Amsterdam Avenue.

Q Where is Hunsaker's pool room? A 79th Street and Columbus Avenue.

Q And where was Shannon coming from? A From that direction.

Q From the direction of Hunsaker's pool room? A Yes.

Q Did Captain Wear leave the pool room with you? A I

58

don't know whether he left the pool room with me or not, I guess we did leave about the same time.

Q When you came down and saw Shannon, what happened?

A He told me that De Camp was upstairs.

Q Who told you that? A Shannon.

Q And did you go upstairs? A No; I told him to go up and see was he there.

Q You told Shannon to go up? A Yes.

Q Did Shannon go up? A Yes.

Q Then did Shannon come down? A No; I followed him up on the first flight.

Q You went up? A I went up three flights.

Q Did Shannon come down? A Yes; but Will Skoog came down and told me they were up there.

Q Did you see Shannon at all? A Not till he came down to the street.

Q You went up to the third floor, preceded by Shannon?

A Yes, sir.

Q Who was to find out if De Camp was there?

MR. FITZGERALD: Now, one moment.

MR. FRAIN: We will withdraw it.

Q Shannon did not come down, but another boy came down?

A Yes.

Q And then you went up? A I went down.

1918

1918

59

Q Then did De Camp come down? A De Camp came down.

Q Now you had some talk with De Camp, did you? A No, just told him the Captain wanted to see him.

MR. FITZGERAID: One moment.

BY MR. TRAIN:

Q Well, you said something to him? A Yes, sir.

Q Then did Clabby come down? A No; Clabby did not come down.

Q Did you send anybody up for Clabby? A They went up after him, again.

Q Who? A Shannon or Skoog; I ain't sure which.

Q And when did Shannon come down? A Shannon came down a little ahead of De Camp.

Q Did you put Shannon under arrest? A No, not till -- at that time?

Q Yes. A No.

Q Did you later? A Yes, in Court he was put under arrest.

Q How long after? A Three or four hours after.

Q Do you know where Shannon went after he went up to De Camp's room and before he came down to see you on the ground floor? A No.

Q Did Clabby finally come down? A Clabby finally came down, yes.

60

Q And did you take both of them to the Police Court?

A Both of them went to the police station.

Q Now, who arrested the defendant? A Hunsaker?

Q Yes. A I did.

Q Where? A In his pool room.

Q How long after that? A That was fully three hours afterwards.

Q And about what time? A Well, I guess around between 2.30 and 3.

Q Who was there in the pool room when you arrested Hunsaker? A His step-son, Jimmie Shannon, was there.

Q Had you seen Shannon from the time he came downstairs with De Camp, until you saw him again in Hunsaker's pool room?

A No, sir.

Q What did you say to Hunsaker? A I just told him to come down to the house.

Q You told him to come to the Police Station? A Yes, sir.

Q What did you say to Shannon? A Didn't say anything to Shannon. Officer Cleary walked with Shannon.

Q Did he put Shannon under arrest? A No.

Q Hunsaker was under arrest and Shannon was not?

A I didn't put Hunsaker under arrest until we got to the station house.

Q Did you have any talk with the defendant on the way down?

198
CASE 361

61

A Not that I remember.

Q Did you have any talk with the defendant at any time about the charge against him? A Yes; on the 5th of April.

Q On the next day? A Yes.

Q Where was he? A In the station house.

Q In a cell? A No; he was in the office; he had sent for the Captain and told him he wanted to see him.

Q And were you there? A I just came in as he was going back to the prison.

Q As the defendant went back to the prison, you met him?

A I met him.

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

Q What did you say? A I said to him, "where is this diamond that was in the center of the ring"? He told me it was dropped by his bureau, under the carpet, under the bureau.

Q Are those the words that you used "where is the diamond that was in the center of the ring?" A Yes; and I told him that Clabby told me that he had it.

Q You told the defendant that Clabby had told you that he, the defendant, had the ring? A "had the stone -- the center stone".

Q How about the ring itself? A The ring itself had already got.

1967-361

62

Q Where did you find the ring itself? A It was returned to Officer Cleary.

Q Did you see it returned? A No.

Q Do you know where it came from? A No, sir.

Q And the defendant said what when you told him that Clabby said he had the stone? A He told me I would find it under his bureau, under the carpet -- under this bureau or chiffonier.

Q That is what the defendant told you in the station house? A Yes.

Q Did he say how he got the diamond? A No, sir.

Q Did he explain how it came into his possession?

A No, sir.

Q Or why it was under the carpet? A No, sir.

Q Did he say in what house? A In his own house, under the bureau.

Q He told you where that was? A Yes.

Q Did you go up to his house? A Yes, sir.

Q Whom with? A Officer Cleary and Douglass.

Q Did you go up to his room? A Yes.

Q Did you look under the carpet? A Cleary did.

Q And did he find anything? A He found this diamond.

Q Found the diamond? A Yes.

1916

CASE 7161

63

Q Did you bring the diamond down this morning? A Officer Cleary brought it down.

Q Well, by that time, did you have the ring? A We had all the other jewelry in our possession.

Q And did you fit the diamond into the room? A Yes; it fits.

Q And is that (showing) the diamond that Officer Douglass--

MR. FITZGERALD: One moment, please. I object.

MR. TRAIN: what do you object to?

MR. FITZGERALD: "Is that the diamond"?

(No ruling).

BY MR. TRAIN:

Q I ask you if that is the diamond that you found under the carpet where the defendant directed you --

MR. FITZGERALD: One moment.

THE COURT: He may answer it.

MR. FITZGERALD: Exception.

A Yes, sir.

BY MR. TRAIN:

Q Did you find anything else? A That is all we found.

Q Did you look for a pistol? A Couldn't find no pistol.

Q You looked for a pistol? A We didn't make a thorough search on account of his wife. His wife was in a very delicate

CASE 7-361

64

condition", and we had to use a great deal of diplomacy with his wife.

MR. FITZGERALD: I move to strike out, "had to use a great deal of diplomacy with his wife".

THE COURT: Yes.

MR. FITZGERALD: And his statements of that kind.

THE COURT: Yes. Go on; Mr. Train.

BY MR. TRAIN:

Q Well, you did not find a pistol? A No.

Q Did you have any other talk with the defendant? A No sir.

Q When was Shannon put under arrest? A On the fourth of March, in the Police Court.

Q That same day? A That same day.

Q At the same time as the defendant? A The defendant was arrested in the station house, in West 68th Street?

Q Yes. A Shannon was arrested in the West 54th Street Police Court.

Q How did he get there? A We were arraigning the prisoners down there, and as I was arraigning them, I spoke to Glabby, and said, "Where is this jewelry?" And he said "Jim Shannon" --

MR. FITZGERALD: One minute. I object.

THE COURT: Objection sustained.

F
E
T
O

19

65

BY MR. TRAIN:

Q Was the defendant present when you spoke to Clabby and he answered you? A I don't know -- it was there in the Court. I don't know whether he was a witness to the conversation.

Q You don't know whether he was within hearing? A I don't know whether he was within hearing or not.

Q When you were arraigning these prisoners down in Court, you said something to Clabby? A Yes.

Q In consequence of what Clabby said did you go anywhere? A Yes; downstairs from the Court to the street, and told Shannon to come up.

Q Told Shannon to go up from the street? A Yes, sir.

Q Do you know what he was doing down there anyway?

A I don't know.

Q He was outside? A He was outside.

Q And you got him into the Court room? A Yes, sir.

Q Put him under arrest? A I asked him where the jewelry was and he said he didn't know. The Captain said, "I arraign that man".

Q So you arraigned Shannon? A I arraigned Walter Shannon.

Q Did you find the jewelry? A Yes, it was returned the next day to Cleary.

Q Who returned it; Mr. Shannon? A Yes, sir; I just seen him

EXHIBIT

1937-361

66

leave Cleary after returning it.

Q Where was it you saw him leaving Cleary? A On the street.

Q What sort of a bundle was it in? A I think in newspaper.
Walter

Q You saw A Shannon leaving a bundle in the hands of Officer Cleary? A Just as he was leaving him after getting the stuff.

Q Do you think it was a newspaper bundle? A A small package.

Q And did you go up and see what was in the bundle? A Yes, sir.

Q You saw what was in it? A Yes.

Q What was in it? A A watch, pair of cuff-buttons and a ring.

Q What relation is Walter Shannon to James Shannon?

A A brother.

Q Does he live in the same house with the defendant?

A Yes, sir, and with James.

Q And now, is this the watch (Showing People's Exhibit No. 1)? A That is the watch.

Q Are those the cuff buttons? (Showing) A Those are the cuff buttons.

Q And where was the ring? A The ring was in the package too.

Q Also in the package? A Yes, sir.

19

Q That is all you know of this case, isn't it? A That is all I know of the case.

CROSS EXAMINATION BY MR. FITZGERALD:

Q Officer, how long have you been on the Police force?

A About two years and a half.

Q Did the conversation about the diamond which was found in Mr. Hunsaker's room, under the carpet, take place between you and Hunsaker, or between Officer Cleary and Hunsaker?

A Between me and Hunsaker.

Q Was Cleary there? A No, sir.

Q Cleary was not there? A No, sir.

Q Did you go to the rooms of De Camp? A Yes, sir.

Q After De Camp was arrested? A Yes, sir.

Q Did you find any of the jewelry there? A No, sir.

Q Did you find anything there in connection with this crime? A Found the butt end of a billiard cue.

Q Where did you find it? A Behind the books, in a bookcase.

Q Did you find any other property there? A No, sir.

Q Eh? A No, sir; I couldn't make no thorough search.

I had to be in Court; hadn't much time; had to be there between two and three; had a crowd of prisoners waiting to go to Court.

Q Did you go up and make another search of the house?

A No; we had got information where the jewelry was; it was not

CASE # 361

68

necessary.

Q Did you find any clothes there? A No, sir.

Q Did you find a coat covered with blood? A No, sir.

Q Did you ever see such a coat? A Yes, sir.

Q Where did you see it? A On De Camp.

Q On De Camp? A On De Camp, yes.

Q When you arrested him? A When we arraigned him before the desk.

Q Was his coat covered with blood then? A No; just in the lining here (indicating); part of the lining was blood-stained; just a faint stain; we could trace it.

Q Was there blood on that stick (indicating)? A Well, there seemed to be a mark of the blood. I couldn't swear positive whether it was blood or not.

Q You don't know whether it had been cleaned?

A Clabby told me that they had washed off the coat and billiard cue with oxalic acid.

Q Did he tell you where they did the washing? A He told me that De Camp done it that day in the house.

Q Before he was ~~xxx~~ arrested? A Before he was arrested.

Q What else did Clabby tell you? A That is all that I remember about.

Q Where did he go with you? A To the station house.

198
CASE 77361

69

Q Did he relate to you the circumstances under which this crime was committed? A yes; he told me all about how it was committed; he was the first one to give us the information.

Q Was anybody with him? A When he gave us the information?

Q Yes. A Well him and De Camp was arraigned before the desk, and Clabby called me to one side and said to me, "John, I don't want to be a squealer". And then he told me the whole thing.

I said, "You are no squealer, and just tell me the whole case"; and he told the whole case to me.

Q Did De Camp say anything to you? A No, sir.

Q Did De Camp know at that time that Clabby was telling you the whole case? A I don't know.

Q What time of day was it that you had this conversation with Mr. Hunsaker in regard to the diamond? A About five o'clock in the evening.

Q In the afternoon? A Yes.

Q Had you been to Court that day; was that the day you were to Court? A No, sir; the day after.

When

Q ~~But~~ you were in Hunsaker's place with Captain Fear did you find anything there bearing upon this crime? A No, sir.

19

Q Did you find anything at any time there bearing upon this crime? A No, sir.

Q None of the exhibits that are in evidence? A No, sir.

BY THE COURT:

Q Did I not understand you to say that you found the diamond in Hunsaker's? A In his apartments. He (indicating counsel) is talking about the billiard room.

BY THE TWELFTH JUROR:

Q Do I misunderstand? I understood this officer to swear that he found a diamond in Hunsaker's rooms.

THE COURT: I asked that same question, Mr. Juror. The witness says that he found the diamond in Hunsaker's apartments, but that the question related to Hunsaker's billiard establishment, and that he found nothing there.

BY MR. FITZGERALD:

Q Found nothing in the billiard room? A No, sir.

Q Pertaining to the crime? A No, sir.

Q But you did find the diamond in Hunsaker's apartment?

A Yes, sir.

Q Where he said it was? A Where he said it was.

FRANCIS CLABBY, being recalled by the People,
testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q When was it that De Camp cleaned the billiard cue?

MR. FITZGERALD: One moment . . . If your Honor
please, I object to the question on the ground that it is
leading, and on the further ground that this witness has
sworn positively that he saw that butt twice, and there
has been no proper foundation laid for that question.

THE COURT: Objection overruled.

MR. FITZGERALD: I except.

BY MR. TRAIN:

Q When was it ~~at~~ A I didn't see that getting washed.

Q You did not see it washed? A No, sir; I seen him
washing his coat.

Q Why did you say that De Camp had cleaned the billiard
cue with oxalic acid?

MR. FITZGERALD: Objected to.

THE COURT: Objection sustained.

A I didn't say that. I said --

MR. FITZGERALD: I move to strike out what he said.

THE COURT: Yes.

BY MR. TRAIN:

Q (handing paper to witness) I show you an affidavit.

9169

198-47-3013

A (After examining) A Yes, sir.

BY THE COURT:

Q Did you see De Camp clean the end of a billiard cue? A No, sir.

Q Did you ever say that you saw him cleaning the end of a billiard cue? A No, sir.

BY MR. TRAIN:

Q Now, what is this affidavit that I show you. the signature to which you have identified as being yours? A My statement.

Q Where was that statement made? A Up at the District Attorney's office.

Q Up in Mr. Perkin's room? A Yes, sir.

Q Now look at the bottom of that statement and see if it refreshes your mind in any way in regard to the oxalic acid?

MR. FITZGERALD: I object, if your Honor please.

I object to the witness reading the paper now.

THE COURT: Objection overruled.

MR. FITZGERALD: On the ground --

THE COURT: Objection overruled.

MR. FITZGERALD: May I state the grounds of the objection?

THE COURT: When you have given a general objection

1916

CASE 361

on the record, I do not think it necessary to do more. The exception will be noted, and you can appeal on all possible grounds.

MR. FITZGERALD: If your Honor please, on the cross examination I tried to make this witness --

THE COURT: I do not care to hear any argument, because I have ruled, and I am clearly of the opinion that I should rule as I have ruled; therefore argument would not budge me from my position.

MR. FITZGERALD: Then we except.

THE COURT: Now proceed with your questions.

BY MR. TRAIN:

Q Now, have you read the affidavit? A Yes, sir.

Q Did you see any oxalic acid in De Camp's room that morning? A I seen a bottle.

Q You saw a bottle of oxalic acid? A And a rag, which he cleaned his coat with.

Q He was cleaning his coat with it? A Yes, sir.

Q And you stated that the first time you ever made a statement in this case? A Yes, sir.

Q And do you know what he did after he had cleaned his coat with the oxalic acid, of your own knowledge? A Nothing, only I remember he was sitting down and crying, and I asked him what he was crying about, and he wouldn't answer me.

9162
CASE # 361

That is all I remember.

Q Do you know, as point of fact, whether he cleaned the billiard cue with it? A No, sir.

THE COURT: He said he did not.

CROSS EXAMINATION BY MR. FITZGERALD:

Q The officer has just sworn that you told him that De Camp cleaned that with oxalic acid. Did you tell the officer that? A I told him he cleaned his coat, and I didn't see nothing more, to my knowledge.

Q Didn't you tell him about the stick? A I told him where the stick was, yes, sir, but I didn't tell him that he cleaned the stick.

Q You did not? A No, sir, I don't remember saying that.

MR. FITZGERALD: May I see the memoranda from which he refreshed his memory?

MR. TRAIN: Yes. I offer it in evidence, if your Honor please.

MR. FITZGERALD: I object.

THE COURT: Objection sustained.

BY MR. FITZGERALD:

Q Who had the oxalic acid? A De Camp.

THE COURT: He has testified to that.

BY MR. FITZGERALD:

Q Where did he have it?

RECORDED
9163
CASE # 361

THE COURT: In a bottle in his room. Do you want to go over that?

MR. FITZGERALD: Oh, if your Honor please, that is the point.

THE COURT: Well, ask him.

MR. FITZGERALD: I do ask him.

A He had a bottle in his room and had a rag with it, and he was cleaning his coat with it.

Q Well, in this statement you say that he came in --

MR. TRAIN: Now, if you offer it in evidence, that is all right, and I wont object.

BY MR. FITZGERALD:

Q Did you ever make a ~~statement~~ statement to anybody that De Camp came into your room and got some oxalic acid? A Yes, sir. The oxalic acid was in my room; I didn't see it until the day I got in there -- until he got in there and used it. He used it in my room. He sat on the edge of my bed and cleaned his coat.

Q I thought you said you were up? A So I was up.

Q were you dressed? A Yes, sir, I was dressed.

Q Where was the oxalic acid? A I couldn't tell you where it was. It was in a bottle. Where he got it from, I don't know. He did not have it when he came into my room.

Q Was it in your room? A I believe it was, because he

1937

didn't have any. I didn't see it on his person at all. He sat down on the edge of the bed and cleaned his coat with it.

Q Didn't he bring it into the room in his hand? A I didn't see it.

Q How big was the bottle? A Only a small bottle, and on it stating "Oxalic Acid".

Q Did you take the bottle in your hand? A No, sir.

Q Did you ~~xx~~ clean any blood off your clothes? A No, sir.

Q What is so funny about that?

MR. TRAIN: Oh, I object to that kind of an examination

THE COURT: Question; question! Proceed.

BY MR. FITZGERALD:

Q Did you ever make a statement that he came into your room and got some oxalic acid? A I don't remember.

MR. FITZGERALD: Now you can put it in evidence, if you like.

MR. TRAIN: There is no objection now to the paper going in evidence, your Honor.

THE COURT: Received on consent.

MR. TRAIN: Both the first and second, the first being what was --

MR. FITZGERALD: Now, one moment.

MR. TRAIN: I understand that each statement

1937-361

offered in evidence, and which both sides have consented to going in evidence, was the statement given to this young man to refresh his memory.

MR. FITZGERALD: Exactly.

MR. TRAIN: (Continuing) And which he makes a statement

THE COURT: Well, now, you had better look at the statement. If you consent to that paper being received in evidence, I will receive it on consent.

MR. FITZGERALD: There are several papers there.

THE COURT: Will you please look at the paper and state what you consent to?

MR. FITZGERALD: With pleasure.

MR. TRAIN: There are two papers here.

MR. FITZGERALD: There are --

MR. TRAIN: Are you speaking, or am I?

MR. FITZGERALD: I think it is my turn to speak.

MR. TRAIN: Then go ahead and speak.

THE COURT: Now, Mr. Train you offered it. Let your adversary see it.

MR. TRAIN: I offer the two papers in evidence, the first being the questions and answers on the examination of Clabby before he made this statement, and secondly the statement made by Clabby.

MR. FITZGERALD: I object to the statement of the

District Attorney. That is not what I agreed to.

THE COURT: Went you look at the papers, Mr. Fitzgerald, and see what you consent to being admitted.

MR. FITZGERALD: I consent to the admission in evidence of the affidavit of Francis Clabby.

THE COURT: Now our questions--

MR. FITZGERALD: One moment, if your Honor please. This does not appear to be sworn to.

MR. TRAIN: Well, the statement is offered in evidence, whether it is sworn to or not.

MR. FITZGERALD: This paper, if your Honor please, I understood was sworn to. It is not sworn to.

THE COURT: Do you ~~fe~~ consent or not consent?

MR. FITZGERALD: I do not consent unless it is sworn to. If he swears to it, I will consent.

THE COURT: The paper will not be received in evidence.

MR. TRAIN: You examined this sheet, Mr. Fitzgerald?

MR. FITZGERALD: I examined the paper signed by Francis Clabby.

MR. TRAIN: And you offered to receive it in evidence. and now you wont receive it in evidence. Is that so?

MR. FITZGERALD: No, it is not so. That is an unsworn statement.

9192

CASE # 361

MR. TRAIN: That is all it purports to be.

MR. FITZGERALD: If he swears to it, I will consent.

BY MR. TRAIN:

Q Is what is contained in the paper signed by you before Mr. Perkins true? A Yes, sir.

MR. TRAIN: There is no objection now, I understand, to its being admitted in evidence. Will you mark it.

THE COURT: That relates to the written statement; it does not relate to the first page, which contains the names?

MR. TRAIN: No.

Said paper is marked "People's Exhibit No. 7".

THE COURT: Now, Mr. Fitzgerald, have you finished with this witness?

MR. FITZGERALD: Not yet. I would like to see the statement now that is in evidence.

BY MR. FITZGERALD:

Q You have stated here, "De Camp and I went home to his home, corner of 78th Street and Amsterdam Avenue. I went into my room. He came in, got some oxalic acid, and rubbed the cue with it, and then put the cue in behind the books in the book case. He also tried to clean his overcoat there." Do you swear that is true? A Yes, sir.

MR. FITZGERALD: That is all.

1987-361
CASE 77-361

MR. TRAIN: (Reading): "People's Exhibit No. 7.

"County of New York :
 Borough of Manhattan, :
 of the City of New York : Francis Clabbe,

of No. 2386 Broadway, Borough of Manhattan, aged 18 years;
 occupation plumber's apprentice, being duly sworn, deposes
 and says as follows: I have ~~xxx~~ known De Camp about
 a month & Hunsicker about 6 weeks. I met both at the
 latter's pool-room. On March 4th, I was playing pool with
 them and Mr. Carroll. I had met Carroll at Hartford Lunch
 Room. We left the pool room at about 2.20 in the morn-
 ing. De Camp and Carroll went out arm in arm. Hunsicker
 and I followed. We went together to the corner, about
 125 ft. behind De Camp and Carroll, n. w. cor. 79th St.
 & Columbus Ave. They turned W. on N. side of 79 St. De
 Camp pulled Carroll's hat off and hit him on head a no.
 of times, 8 or 10. Hunsicker left me pulled something
 from his pocket, and hit Carroll in top of head with it.
 I saw Carroll fall. Then I turned rond east to 8 Ave. 89th
 St. There I waited, and was joined by Hunsicker and De
 Camp. We walked to the first lamppost south and there
 took from their pockets De Camp a watch which he said
 he got and Hunsicker a diamond ring, the middle stone he
 took out and said he wanted it for his wife and gave the
 rest of ring to De Camp and told De Camp not to forget to

19

give him 1/2 of what watch was worth. We walked down to 76 St. & 8 Ave. and then thro 76th St. to Columbus where Hunsicker left us. On way down cues which he had used he said in assaulting Carroll and showed me his pistol. He said he would shoot the first one who told about it. De Camp and I went home to his house corner 78th Street and Amsterdam Avenue. I went into my room. He came in, got some oxalic acid and rubbed the cue with it and then put the cue in behind the books in the book case. He also tried to clean his overcoat there. The Shann same morning Shannon came around and told De Camp there was an officer waiting down stairs. He said all right and asked Shannon to take the jewelry & keep it until he came back from station house. Shannon refused at first. De Camp then stated that Hunseker was in it whereupon Shannon took the jewelry &c.

(Signed) Francis Clabby.

In the presence of

Charles Albert Perkins.

(Signed) Francis J. Kear".

RE-DIRECT EXAMINATION BY DR. TRAIN:

Q That was the affidavit, the statement that you made when you first came down to the District Attorney's office?

9719

198-361
CASE 7-361

A Yes, sir.

Q And that is substantially as you remember the transaction? A Yes, sir.

The Court admonished the jury according to Section 415 of the Code of Criminal Procedure.

Adjourned to Tuesday, April 21st, 1903, at 10:30
a.m.

Tuesday, April 21, 1903, 10:30 A. M.

TRIAL RESUMED.

J O H N D. D O U G L A S , called as a witness on behalf
of the People, being duly sworn, testified as follow :

DIRECT EXAMINATION BY MR. TRAIN:

Q Mr. Douglas, you are a police officer, attached to
the 26th precinct, are you not? A Yes, sir.

Q And on the 4th of March last, did you participate in
the arrest of either Robert DeCamp or the defendant Hunsaker?
A Yes, sir.

Q Where did you first see Hunsaker? A In front of the
desk in the station house in West 68th Street.

Q What time of day was it? A That was about three
o'clock.

Q That was after the defendant had been placed in cus-
tody? A Yes, sir.

Q And was he taken before the desk? A Yes, sir.

Q Now, did you have any conversation with the defendant
at that time? A Not at that time, no.

Q When did you next see him? A Well, he was ar-
raigned in court that afternoon, and then he was remanded
back to the station house.

Q Did you see him in the station house? A Yes, sir.

Q Under what circumstances? A On the night of the

1903
CASE 2361

5th he came back from the captain and he was placed in a cell, and I spoke to him through the cell door.

MR. FITZGERAID: One moment. I object; unless it can be shown that this prisoner, while in the station house, was informed of his rights as a citizen of this State, I object to any conversation or "third degree" of the police force of this city.

THE COURT: I will overrule your objection, so that that question may be determined if need be by the Appellate authorities. It is an objection that is frequently made, and it is well to have it passed upon, and I will give you an opportunity. You may note an exception. Your objection is overruled.

BY MR. TRAIN:

Q Go on and finish your answer? A So I said to him, "What became of the stones that was in that ring?" He said, "I have told Officer Coleman all about that."

He says, "I am in a pretty bad fix, ain't I?" I says, "You are".

He says, "If I testify against DeCamp, won't I get out of this?" I says, "Possibly you might." He said, "If you can fix it so I can testify, I would see that you are well paid."

Q Did he say anything as to who put up the job, or words to that effect? A No; I can't say that he did. I wouldn't

CASE 7-361

9178

say so.

Q Was anything said as to who originated the idea of committing this crime? A Well, the only thing, I told him-- I asked him about the piece of billiard cue, and he said he saw DeCamp put that in his pocket before he came out of the place.

Q Now, have you told everything that you can think of at this moment that the defendant told you? A Yes, sir; I can't think of anything else.

Q ~~What~~ And you recall nothing said as to who planned this? A No, sir.

Q Did you have any other conversation with the defendant at any time? A No, sir.

Q Did you go to the defendant's house? A No, sir.

Q So that that is all you know about it? A No, sir-- I did about the revolver and about the stone, with Officer Cleary.

Q Whom did you go with to the house? A I went with Officer Cleary to his house.

Q To the defendant's house? A Yes.

Q And where did you go in the house? A We sat in the front room.

Q Yes? A And that was the first time with Coleman. Cleary and I were alone the first time.

Q And you went again? A Yes, sir.

M 7 1 9

CASE # 361

Q Who went? A Coleman and Cleary.

Q And you did not go the second time? A Yes, sir.

Q You three went? A yes, sir.

Q And how long after? A The next night.

Q What did you do? A Officer Coleman and I stayed in the front room talking with Mrs. Hunsaker, and Cleary went out and got the diamond.

Q So you were not in the room when he got the diamond?

A No; we were not in that room.

Q Cleary went out and came back? A yes, sir.

Q And when Cleary came back, he had the stone? A When we got downstairs in the hall, he showed us a stone.

Q That is all you know about this case? A Yes, sir.

CROSS-EXAMINATION BY MR. FITZGERALD:

Q You did not hear Officer Coleman testify yesterday, did you? A Well, part of it I did, yes.

Q Which part? The beginning or ending? A I was sitting too far back; I couldn't hear exactly what he did say.

Q You could not hear all of his testimony? A No, sir.

Q And that which you did hear, you did not hear very well? A No, sir. We were outside most of the time.

Q Did you hear him state yesterday that he found the diamond? A No, sir; I did not.

Q Who do you say found it? A Why, Officer Cleary found the diamond.

9122

191

Q Your recollection on that is very clear? A Positive.

Q You went to this young man's cell in the 68th Street station? A No, sir; I was standing outside when he was brought back from seeing the Captain.

Q Did you see Officer Coleman and Officer Cleary there at that time? A Officer Coleman was standing over a little to the right. Officer Cleary at that time was not there.

Q Was there ever a time when you and Cleary and Coleman were together in the presence of this prisoner? A No, sir; at no time.

Q You had a conversation with him? A With whom; the defendant? A Yes? A Yes.

Q Did he call you over? A He spoke to me as I was standing outside looking in at Clabby. He was like in this cell (Indicating), and Clabby in this (Indicating).

Q Did he know you? A Certainly he knows me.

Q Did you know him? A Hunsaker?

Q Yes. A Oh, yes; I knew him.

Q You knew where he kept a place of business on 79th Street and Columbus Avenue? A Didn't know him at that time, no.; didn't know he kept the place.

Q Never was in his place? A I was in there twice.

Q Before his arrest? A Before his arrest, yes.

Q And you didn't know he kept it? A Didn't know he was the owner; no, sir.

Q How long have you been in the 68th Street precinct?

A I have been there twice. I came there in 1898.

Q How long have you been there? I don't ask you how many times you have been there.

MR. TRAIN: Give him a chance to answer.

THE COURT: No; now, do not talk among yourselves, but get an answer to the question.

A Two years last October.

BY MR. FITZGERALD:

Q Two years? A Yes.

Q In the precinct? A In the precinct,-- last October.

RE-DIRECT EXAMINATION BY MR. TRAIN:

Q Perhaps you were not present in the courtroom yesterday; you have heard what Officer Coleman said about who found the diamond. Did you hear this question asked:

"Q. Did you look under the carpet" -- asked of Coleman.

"A. Cleary did. Q. Did he find anything? A. He found this diamond. Q. Found the diamond? A. Yes, sir.

"Q. Did you bring the diamond down this morning? A. Officer Cleary brought it down."

A (No answer).

MR. TRAIN: That is all.

MR. FITZGERALD: One moment. I object, and move to strike it out. He asked a question, and before the

witness answers, he says, "That is all". There has been no answer to that question.

BY MR. TRAIN:

Q Answer the question, and that is all. A If I heard Officer Coleman say that?

Q Yes, on the stand? A I didn't hear Mr. Coleman's testimony. I was outside part of the time, and the rest of the time I was so far back I couldn't hear it. I couldn't tell what he said.

RE-CROSS EXAMINATION BY MR. FITZGERALD:

Q You and Coleman were in the parlor while Cleary was finding the diamond? A Yes, sir.

Q And Coleman was not there when the diamond was found, was he? A With Cleary?

Q Yes. A Well, Coleman was with me in the front parlor.

FRANCIS J. KEAR, called as a witness on behalf

of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q You are a Captain of the Police Force of the City and County of New York? A Yes, sir.

Q Attached to what precinct? A 26th.

Q And were you attached to that precinct on the 4th of March, 1903? A Yes, sir.

CASE 361

Q In the early morning of that day did anyone come to the station house in regard to a robbery? A It was telephoned there.

Q You received a telephone message? A Yes, sir.

Q And in consequence of that message, what did you do?

A I went to 203 West 81st Street.

Q Yes. A To the top floor, and I saw Mr. Carroll there.

Q The complainant in this case? A The complainant in the case.

Q About what time was this? A That was about nine o'clock, I should judge.

Q Nine o'clock in the morning? A Yes.

Q Will you describe Mr. Carroll's condition? A He was lying in bed, and his head was wrapped in bandages almost down to his eyes. His fingers were bandaged as though bruised or broken.

Q Was Dr. Worster there? A No, sir; he was not present; he was downstairs.

Q Were you able to have any conversation with Mr. Carroll? A I was.

Q Now, after that conversation, what did you do?

A I went out and visited the places that Mr. Carroll said --

MR. FITZGERALD: I object to any statement of that kind.

THE COURT: Yes.

Q Where did you go? A I went to the corner of 81st Street and Amsterdam Avenue, to a quick-lunch place first, and made some inquiries there about the men who had been present in the night, and had left.

I then went to Mr. Kennelly's restaurant, between 83rd and 84th Street, on Columbus Avenue, and made some inquiries there, and found out that Mr. Carroll and some other parties had been there somewhere around one o'clock or so in the morning. I then went to Hunsaker's poolroom.

Q What time did you get to Hunsaker's poolroom?

A I should think it was ten o'clock.

Q And who was there when you got there? A A colored man, and some other men.

Q Was the defendant there? A No, sir.

Q Did you have any talk with this colored man?

A I inquired where the defendant was.

Q And did you find out where he was? A The colored man sent for him -- telephoned for him.

Q And then did the defendant come down? A He did, in about three-quarters of an hour, I should think.

Q Now, did you hear what the colored man telephoned to the defendant? A I did not.

Q And you say it was some three-quarters of an hour before the defendant arrived? A Yes, sir.

1937
CASE 7-361

Q Who was with you; anyone? A Fitzgibbons was there, and Coleman came in later.

Q Will you describe what was said and done by the defendant and yourself there in the poolroom?

MR. FITZGERALD: I object, if your Honor please, on the same grounds that I stated when the officer was sworn.

THE COURT: The same ruling.

MR. FITZGERALD: And an exception.

BY MR. TRAIN:

Q Describe what happened? after that, when Hunsacker came in? A When Hunsaker came in, I asked him, Did he see Mr. Carroll in the poolroom there that morning. I described the man for him; and he said, "Yes; he was here playing pool with DeCamp, myself and a third party".

Q Clabby? A "And Clabby". He said, "They played several games and then they went out; DeCamp and Clabby went upstairs first," he said, "and went down towards 79th Street;" and that he came to the top of the stairs and went up Columbus Avenue and went home; and he said to me, "Why? Is there anything wrong?"

I says, "Oh, no; I am just trying to locate Mr. Carroll."

Q Was that all the conversation that you had with him at that time? A At that time.

Q Then where did you go? A Then I went out in the

street and got Coleman and them to go to look for DeCamp and Clabby and bring them to the station house to me.

Q And you went to the station house? A Yes, sir.

Q How long after that was the defendant arrested?

A He was arrested sometime -- I was not present at the station house. I suppose it might have been twelve or one o'clock.

Q That same morning? A That same day.

Q After the defendant had been brought to the station house, did you then, or at any subsequent time, have any talks with him?

Same objection, ruling and exception.

A Not until the next day.

Q How did that conversation occur? A When I returned in the afternoon to the station house, the sergeant informed me that the doorman had told him that the persons --

MR. FITZGERALD: One moment, Captain, please.

Was this conversation in the presence of the defendant?

MR. TRAIN: No.

THE COURT: Never mind, Captain, what anyone else said. Now, bring the conversation to the particular point.

BY MR. TRAIN:

Q The officer said something, after which you did what?

A I sent him for the prisoner, and had an interview with the

CASE # 361

defendant and Hunsaker.

Q Together or separately? A Separately.

Q Which first? A I am not positive, but I think DeCamp I first interviewed.

Q And were these interviews carried on in such a way that they could be audible to the other young man present?

A It was only one at a time.

Q And where was it? A In the office in the station house.

Q You had Hunsaker brought in? A Yes.

Q And was that at his request? A His request, yes.

Q What did he say and what did you say?

MR. FITZGERALD: I object to it; the same objection.

Objection overruled. Exception.

A He came in and he says, "I want to speak about this case to you;" and I told him then that I didn't want to hear anything in the matter, and that ~~he~~ anything he said might be used against him; and he then told me that Hunsaker had put up the job.

Q Now, Hunsaker, whom are you describing? A Or at least DeCamp had put up the job. I am describing the defendant now.

Q That is what the defendant said? A Yes, sir; that DeCamp had put up the job to rob Mr. Carroll.

RECORDS

196-4-361

Q What else did he say? A And that DeCamp had got all of the property except the ring, and that he had the ring .

Q And he said he had the ring? A That was about the substance of the conversation.

Q Did he say where the ring was? A No; he didn't tell me at that time.

Q Did he say anything about turning State's evidence? A No.

Q What did you say to this? A I simply sent him back and went to work on the case.

Q To find the property? A The property was returned afterwards, yes, sir.

Q Which officer was it who was handed some of this property on the street? A Cleary.

Q Cleary? Yes, sir.

Q Now, after that did you have any other ~~ex~~ talks with the defendant? A I did not.

Q Did he say anything about how he got the ring? A He did not.

Q Or what he had done with it? A No, sir.

Q Or anything further about DeCamp than to say that it was DeCamp who put up the job? A Not after the first conversation.

Q Did you ever have any other conversation? A Not with him; no, sir.

Q Well, that is all you know about the case? isn't it?

A Yes, sir.

CROSS-EXAMINATION BY MR. FITZGERALD:

Q Captain, when you went to the poolroom that morning, and found the colored man and the other young man in charge, did you make an investigation of the place? A Yes; I looked it over.

Q You looked it over? A Yes, sir.

Q Did you go there subsequently, Captain; did you go there afterwards? A Oh, I visited the place afterwards.

Q Afterwards? A Oh, yes, several times.

Q On which occasion was it that you got the revolver that you took away from there? A On the second visit.

Q Have you that revolver now with you? A I believe it is in the station house, if it has not been returned to the colored man.

Q You did not bring it down to court here this morning, did you? A No, sir.

MR. TRAIN: Telephone for it, when you leave the stand, please.

BY MR. FITZGERALD:

Q Do you think you could get it here? A I guess so. The colored man claims he was the owner of that revolver, I believe.

CASE 361

Q Where did you find that revolver? A It was in a case in front of the store.

Q In a cigar case? A No; the case ~~where~~ where they kept some tips of their billiard cues and things of that kind.

Q Could it be seen? A Could it be seen?

Q Yes. A Well, no --

MR. TRAM: I object to that as immaterial.

(No ruling.)

BY MR. FITZGERALD:

Q Well, you made a search of the place, did you not?

Objected to.

THE COURT: Overruled.

BY MR. FITZGERALD:

Q You made a search, Captain, of the place? A Yes.

The colored man was there with us.

Q And you found this revolver in the case? A Yes.

Q What kind of a looking revolver was it? A I should think 38-calibre with a nickel handle; I think; a nickel-plated revolver.

Q Was it a nickel revolver? A yes, nickel-plated.

Q What was the color of it? A Bright.

RE-DIRECT EXAMINATION BY MR. TRAM:

Q You say the colored man said it was his? A Yes, sir.

MR. FITZGERALD: Now, if your Honor please, I move

to strike out the question and answer.

THE COURT: Strike them out .

MR. TRAIN: Your own testimony.

THE COURT: A repetition. It is unnecessary.

Anything else with this witness?

MR. TRAIN: That is all.

J O H N J. C L E A R Y , called as a witness on behalf
of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q How long have you been attached to the 26th precinct?

A Close onto four years.

Q Please raise your voice. A About four years.

Q How long have you known the defendant? A Oh, I
only know the defendant a couple of years.

Q You have known him half the length of time you have
been in the precinct? A Yes.

Q On friendly terms with him? A Well, on speaking
terms with him, about six months.

Q Before this happened? A No, altogether.

Q Now, on the 4th of March, did you, in pursuance of any
orders you received, go to Hunsaker's house? A I did go up ;
yes, sir.

Q Whom with? A I went up with Counselor Greenthal.

Q Did you go up in the company of any other officers

1937-361

at any time? A yes, sir.

Q When was that occasion? A That was -- I believe it was the 4th of the month.

Q 4th or 5th, do you know? A 4th or 5th.

Q What time of the day was it? A It was in the evening.

Q Who were the officers who went with you? A Officers Douglas and Coleman.

Q Now, will you state what happened after you got to the house.

A Well, we went up to see Mrs. Hunsaker to speak to her in general about the jewelry, and on information that Douglas and Coleman possessed, which they gave me, we found the missing diamond in Mr. Hunsaker's room. I spoke to Walter Shannon, the step-son of Mr. Hunsaker,--

Q Never mind what you said.

THE COURT: Wait a moment. Strike out all this, after "information about Shannon".

BY THE COURT:

Q Now, when you went up there, Officer, what did you do in the rooms of Mr. Hunsaker? A We went into Mr. Hunsaker's rooms.

BY MR. TRAIN:

Q Louder. A We went into Mr. Hunsaker's room and saw the diamond on the floor underneath the carpet.

Q Did you raise the carpet? A Young Shannon raised it.

CASE 7-361

Q Which Shannon? A Walter.

Q And you saw it there? A yes, sir.

Q And you had received information that it was there before you went to the house? A Yes, sir.

Q And was it in the same place that you had been told it was? A yes, sir.

Q Did you take it? A yes, sir.

Q Now, how far is this house where you went to get the diamond, from Hunsaker's poolroom? A The poolroom is on Columbus Avenue near 79th Street, and Hunsaker's house, I believe, is 89th Street and Columbus Avenue.

Q 89th street -- it is half a mile away? A About.

Q Now, did Douglas and Coleman go into the room with you? A No, sir.

Q While you were raising the carpet, were they in some other room? A Yes; they remained in the parlor with Mrs. Hunsaker.

Q With Mrs. Hunsaker? in the parlor? A yes.

Q Did you have any talk with the defendant? Hunsaker?

Q Yes. A I had a little conversation with him in the morning of the day he was arrested.

Q What did he say? A I was asking him then -- trying to find some information about the case.

MR. FITZGERALD: If your Honor please, the same objection, and the same ruling, I suppose?

THE COURT: Yes.

MR. FITZGERALD: Exception.

BY MR. TRAIN:

Q Where was it? A In Hunsaker's pool parlor.

Q In his parlor? A The pool parlor.

Q When you were with the Captain? A No; I was alone then at the time.

Q Was that before the Captain's visit, or after?

A After.

Q What did the defendant say then? A He narrated to me about the Captain talking, sending word up to his house and wanting him down, and asking him about the case.

Q What did he say? A Just narrated those circumstances.

Q Then you came there after the Captain had been there?

A Yes.

Q Did the defendant say anything about the robbery?

A Well, he mentioned about some robbery, and assault having been committed early that morning.

Q What did he say; you say he mentioned something about a robbery and assault having been committed, while I want to know what he said; you have testified enough times in criminal cases -- A Yes, sir.

Q -- to know what is expected when you are asked what

a man said? A He said that he left his pool room and took a car at 79th street and went direct home.

Q And is that all he said? A That is all I can say and remember.

CROSS-EXAMINATION BY MR. FITZGERALD:

Q Did you have any conversation with Mr. Hunsaker about this stone? A If I had?

Q Yes? A No, sir.

Q How long have you known Hunsaker, do you say?

A Just to see him I know him, I guess, close onto two years.

Q Well, in all the two years that you have known him, what did you know about him; anything?

Objected to; objection sustained.

Q In all the time that you have known Hunsaker, have you ever known him -- was he ever arrested in all that time?

MR. TRAIN: Now, if your Honor please --

MR. FITZGERALD: I withdraw it.

MR. TRAIN: I think counsel should be instructed ;
he understands perfectly well.

THE COURT: I have instructed by sustaining the objection, which I do.

BY MR. FITZGERALD:

Q Do you know what his reputation is in that locality?

MR. TRAIN: Do you know it?

MR. FITZGERALD: One moment. Now, do you want to--

I am mindful of your Honor's admonition.

Q Do you know what his reputation is in the ~~XXXXXX~~ locality in which he lives?

MR. TRAIN: Just one moment.

Q (Continuing) For honesty and good character?

A I don't know anything of his character.

BY THE COURT:

Q Do you know anything of his reputation? A No, sir; not until this affair took place.

BY MR. FITZGERALD:

Q You have known him for two years? A Yes, sir.

Q And you have been a police officer all that time? in this precinct? A Yes, sir.

Q Were you doing special duty? A Not all the time; no, sir.

Q Part of the time? A Yes, sir.

Q You knew where his place of business was? A Yes, sir.

Q And you say you don't know what his reputation for honesty was?

MR. TRAIN: I object.

Q (Continuing) In all that time? A I don't know anything about him.

198-7-361

Q What? A I never spoke to the man.

Q I didn't ask you whether you had ever spoken to him.

A I am just going to tell you what I know about him.

Q (Question repeated) A I never heard anything wrong of him.

RE-DIRECT EXAMINATION BY MR. TRAIN:

Q When did you first see this jewelry (Indicating People's Exhibits)? A It was on the 10th of March, I believe.

Q Did it come into your possession? A Yes.

Q How? A Walter Shannon, a step-son of Mr. Hunsaker, turned it over to me.

Q Walter Shannon, a step-son of the defendant's, returned it to you where? A At the corner of 68th Street and Broadway.

Q How was it done up? A It was wrapped up in a piece of linen.

Q Did you examine it then? A Yes.

Q Did you see what pieces were in the linen? A Yes, sir.

Q Now, which ones? A That one (Indicating).

Q The ring was in it? A Yes.

Q And all the other pieces? A Yes.

Q The diamond was found before or after this? A After.

Q Afterwards? A Yes, sir.

1916

1916

Q So that at that time the diamond was the only piece of jewelry that was missing, that was not delivered to you by the son-in-law of the defendant's? A Yes, sir.

MR. TRAIN: I wish to recall Captain Kear.

I understand he is at the Coroner's office, and will be right up.

THE COURT: Have you any other witness?

MR. TRAIN: No, your Honor.

THE COURT: Then, with the exception of calling Captain Kear, you rest?

MR. TRAIN: Yes.

THE COURT: Very well; the people rest, with permission to call Captain Kear. I think we may safely give that permission.

MR. FITZGERALD: Oh, yes.

THE PEOPLE REST.

DEFENDANT'S COUNSEL'S OPENING ADDRESS.

MR. FITZGERALD: May it please the Court, and Gentlemen of the Jury: It must occur to you at this time that this is indeed a very important case, and I doubt whether there are more important cases on which a jury is called upon to sit; important to the People, important to the community and important to the individual who is brought to the Bar of Justice.

Many things have occurred during this trial which certainly must seem tiresome to you, and for my own part I would gladly relieve the jury from the tediousness of a lengthy trial, and of the things that sometimes crop out between counsel; but, gentlemen, they were all for a purpose, and there was a very distinct and definite object in view.

Gentlemen, after the testimony which you have heard from that stand, it may occur to you to ask yourselves how and why and wherefore a man like Mr. Hunsaker should be mixed up in a scrape of this kind. As it was described from that stand, I can't recall any crime outside of murder -- downright, deliberate murder, -- which in its details was more disgusting and at the same time more harrowing.

The question arises now, Now, what answer has this prisoner to make? I am not here to advise false swearing. It is not my business as the counsel of this defendant to encourage perjury. We have no defence except the truth. That is our defence; and we content that the truth in this case must prevail, must prevail even over the most convincing circumstantial evidence.

I propose to place upon the stand in this case the defendant himself. It is for him to speak, and this is the first time he has ever had an opportunity to speak,

and he must convince you; he must convince you that he is an honest, truthful man, and if he don't convince you, convict him.

I am not here to apologize for him. He must stand on the facts in this case as they come from his own lips, and I think, gentlemen, ~~xxx~~ that you will be glad to know that he can convince you of his honesty.

There are many reasons why Hunsaker should take the stand in this case -- reasons personal with himself. No man wants to walk the streets of New York under such a charge. No man of his antecedents desires to labor under such a charge; an aged father, come all the way from California to inquire into his innocence, or his guilt; a wife and child --

MR. TRAIN: Well, I do not think, if your Honor please, at this point that the wife and child are material.

THE COURT: Yes; I sustain the objection to that. You could not show it, Mr. Fitzgerald. The object of the opening is merely to tell the jury what you are going to prove. Pay no attention to this, gentlemen.

MR. FITZGERALD: (Continuing) I will show you that this man is a married man with a family, with a responsibility in this community; that he never before

faced a Justice in his life, till he was brought up on this heinous charge; that no police officer ever laid his hand upon him till he was accused of this crime.

I will show you that on that evening Mr. Hunsaker went to his place of business, and that at that time he had in his possession more money than was adduced on this trial as being in the possession of Mr. Carroll. I will show you that he had ~~xxx~~ more diamonds and better diamonds than Carroll had.

I say that we have no defence except the truth, except our previous character and good name, and that we propose to lay before this jury. We will show you something of the diamond that was found under the carpet. We do not deny it. It was in our house; it was in our room; it was under our carpet, just where we put it.

We will show you, too, that Mr. Hunsaker never assaulted this man with a stick or with a revolver, as it has been attempted to show here; and the revolver was very discreetly kept out of the case, until, forced, the District Attorney very delicately says to the Captain of Police, "You will produce it as part of the res gestae in the case". He leaves it behind, because they cannot fasten that revolver on Walter L. Hunsaker.

1917
CASE 77361

He never owned it, and the darkey said he did not own it, and that black negro told the truth, too. That is the reason, but we want the revolver here, and we will show where the revolver was found, and where the revolver was kept, and who was the owner of the revolver.

Gentlemen, it sometimes happens in a man's career, and especially if he happens to be a citizen of California, 3,000 miles away from home, that the only defence which he can possibly offer is to go upon the stand and subject himself to the ordeal and the scrutiny of those who are interested in his guilt or innocence. I propose to place him there, and when his examination is finished, by me, I propose that the District Attorney shall cross-examine him better than he ever cross-examined a man in his life before; and I want you gentlemen of the jury, either to suggest questions, or ask them yourself with the permission of the Court, anything that may come to your mind which you may feel that he is called upon to explain.

Nothing to hide! And I promise you, that when he tells his story of this crime as it was transacted before his eyes, as it was impressed upon his memory never to be obliterated, there will be no "I don't remembers"; there will be no "forgets"; but there will be that conviction which you yourself will have of this

man's innocence when you catch expressions from nothing
but the truth itself. The truth is our defence.

I will call Walter L. Hunsaker to the stand.

CASE 72 361

W A I T E R L. H U N S A K E R , defendant, called as
a witness in his own behalf, being duly sworn, testified
as follows:

DIRECT EXAMINATION BY MR. FITZGERALD:

Q Mr. Hunsaker, where do you reside? A 76 West 89th
Street.

Q With whom do you reside? A My wife, my child and my
wife's children, my step children.

Q Your wife was a widowed woman when you married her?

A Yes, sir.

MR. TRAIN: Objected to.

(No ruling.)

BY MR. FITZGERALD:

Q With several children?

MR. TRAIN: There is an objection before the
Court, Mr. Fitzgerald.

THE COURT: Objection sustained.

MR. TRAIN: I move that the answer be stricken out.

THE COURT: Motion granted.

MR. FITZGERALD: We except upon the ground, if
your Honor please, that the District Attorney has endeav-
ored to connect this man with a crime by reason of showing
that his step-son was one of the go-betweens, between one--

THE COURT: It appears in evidence that he has a

9200
CASE 77361

wife already. There is no dispute about that. Now the details of the family need not be gone into. If you want to ask him if a particular person is his son-in-law, or is related to him, ask him that. There is no objection to that. But your question is improper, because it seeks to bring out a fact that is not relevant to this inquiry. Hence I sustained the objection.

MR. FITZGERALD: We except.

Q A person has been described as your step-son. How many step-sons have you? A Five, and one daughter.

THE COURT: I will sustain the objection to that.

MR. TRAIN: I move that the answer be stricken out.

THE COURT: Strike it out.

BY MR. FITZGERALD:

Q Have you a step-son? A Yes, sir.

Q How many step-sons have you?

THE COURT: Objection sustained.

MR. FITZGERALD: If your Honor please --

THE COURT: It was objected to by the District Attorney, presumably upon the ground that the extent of the defendant's family has nothing to do with this case. I have sustained the objection.

MR. FITZGERALD: After the District Attorney, if your Honor please, has brought the family in here.

MR. TRAIN: I only brought in one.

1936
CASE # 361

THE COURT: The family is not in here at all, and I do not want it in here, and I am only cautioning you not to put it in when I have sustained the objection. You have an exception which will permit you to review my ruling, if it is improper. Now, do not ask further questions upon that line, because it only necessitates my overruling the ~~my~~ questions and sustaining the objections to them.

BY MR. FITZGERALD:

Q You support a family?

Objected to; sustained; exception.

Q Are you in business, Mr. Hansaker? A I was.

Q Where was your place of business? A 400 Columbus Avenue.

Q What was your business? A Pool parlor.

Q Whereabouts is 400 on Columbus Avenue? A Between 79th and 80th Streets on the West side of Columbus Avenue.

Q What floor did you occupy? A I occupied the ^a basement room,-- finished room.

Q Of a building on those premises? A The Brady Building.

Q Any other tenants in the premises? A Yes, sir.

Q Who are they? A There is a florist upstairs, dry goods merchants on the corners, a delicatessen store, butcher shop, dance hall on the second floor, and electrician and

9 2 9 2

CASE 7-361

various other offices.

Q How long have you been in business? A Since the 24th of January.

Q This year? A Yes, sir; of 1903.

Q What was your business before that time? A I was cashier and office manager of the Lee Lash Company.

Q What is the Lee Lash Company? A They are --

MR. TRAIN: Objected to.

THE COURT: I will sustain the objection to it.

MR. FITZGERALD: We except, if your Honor please.

I think I ought to be allowed to show what this man's business is, and what his antecedents are.

THE COURT: Objection sustained.

BY MR. FITZGERALD:

Q Will you explain to the jury what you mean by the Lee Lash Company?

THE COURT: Objection sustained.

MR. FITZGERALD: We except.

THE COURT: You have your exception; you need not

refer to that.

BY MR. FITZGERALD:

Q Before you went with the Lee Lash Company, what was your business? A I was with the Columbia Fireproofing Company, as cashier and time keeper.

Q And before that what was your business?

1911
CASE 7361

MR. TRAIN: Well, I object.

THE COURT: He may answer.

A I had spent -- I had been working for Mr. Brady only a short while.

BY MR. FITZGERALD:

Q What Brady? A John T. Brady, brother of James T. Brady, the Building Commissioner that was.

Q In the building business? A I had charge of some outside work.

Q Before that what was your business? A I had been in Paris for a year. I was with the California Exposition Committee as bookkeeper and stenographer.

Q Do you recall, Mr. Hunsaker, the night of March 3rd?

A I do.

Q And the morning of March 4th? A I do.

Q Do you know Walter DeCamp? A I know Robert De Camp.

Q Or Robert De Camp? A Yes.

Q Do you know Francis Clabby? A I do.

Q Do you know Mr. Carroll, the complaining witness in this case? A I saw him on the night of March 3rd.

Q Did you see these other persons whom I have mentioned, on the same night? A I did.

Q You were in their company? A I was.

Q Now, Mr. Hunsaker, relate in your own way every incident that occurred while you were in the company of Car-

1917
CASE 7-361

6

roll, DeCamp and Clabby on the night --

MR. TRAIN: I object to the form of the question.

THE COURT: Objection overruled.

Q (Continuing) -- on the night of March 3rd, and the morning of March 4th? A I left my home at 76 West 89th Street about 10:15. I was detailed at home on account of the illness of my wife. I went down to my pool parlor and there saw Robert De Camp and Francis Clabby. They had evidently just finished a game of pool.

After staying there until about half-past eleven or quarter to twelve, I closed up my business with the intention of going home. Robert De Camp asked me to adjourn with him to the Orleans Café, at the corner of 80th Street and Columbus Avenue, and have a drink. We went into the saloon, the three of us, had drinks at the bar and then went into the rear part of the café and sat down.

I drank Scotch high-balls, De Camp did the same, and Clabby drank beer.

After having stayed there perhaps three-quarters of an hour to an hour, we went down 80th Street with a view of calling upon a lady who lived on 80th Street, between Amsterdam Avenue and the Boulevard.

We were unable to see her. We then determined to go up on 106th Street and Columbus Avenue to see some other friends. With that in view, we started up Amsterdam Ave-

193
CASE # 361

nue.

At the corner of 81st Street and Amsterdam Avenue, De Camp met a policeman. A conversation took place in which this policeman told Mr. De Camp that there was a gentleman up at the next corner in the restaurant who was talking politics with another drunken man; that he intended running that district against Johnnie Sexton, as leader of that district. De Camp asked us to go with him and he went up and entered the restaurant, we following him, Clabby and I.

A conversation took place between this stranger, Mr. Carroll and Mr. De Camp. During this conversation, Mr. Jimmie Mahon, I was told his name was, he said that Jimmie Sexton was "a son-of-a-bitch, and that anybody that took up for James Sexton was the same thing.

THE COURT: We do not want all this, Mr. Fitzgerald. It has nothing to do with the case.

MR. FITZGERALD: I do not care about the extraneous conversation.

THE COURT: There was a conversation relating to a political subject. You have got that in. Now, just omit any reference to that conversation further, unless it has some special bearing. I do not see any possible bearing which that has upon this case, a conversation that was had in a restaurant. At the rate we are going, we will never get through with the case.

193
CASE # 361

MR. TRAIN: I am not in a position to object to anything, because --

THE COURT: Now, proceed with the questions.

THE WITNESS: What am I to do, your Honor?

THE COURT: Answer questions.

MR. FITZGERALD: If your Honor please, this conversation may have some bearing upon this event.

THE COURT: You ought to know whether it has or has not.

MR. FITZGERALD: I do know, if your Honor please. One of the reasons why Carroll went with them --

THE COURT: If you will ask the questions, we will determine whether it relates to relevant matter or not.

BY MR. FITZGERALD:

Q Do you remember leaving that place afterwards? A Yes, sir.

Q And where did you go? A We went up Amsterdam Avenue ~~into~~ to 83rd Street.

Q How many of you went? A Five.

Q Who were the five? A Mr. Carroll, Robert DeCamp, Francis Clabby, a stranger and myself.

Q Where did you go? A Across Amsterdam Avenue to a saloon.

Q Did you go into the saloon? A It was closed.

Q Then where did you go? A Went over Columbus Avenue,

191
CASE # 361

and down Columbus Avenue to 80th Street -- to 81st Street, to Edward Bowersmith's saloon, but we couldn't get in.

Q And then where did you go? A Went up to Kennelly's restaurant.

Q State what took place in Kennelly's restaurant? A Mr. De Camp sat on one side of the table with Mr. Carroll. I sat on the opposite side with Frank Clabby and Jim Mahom.

In the conversation there, Mr. De Camp was very unruly, shouting and making a disturbance in the restaurant, and he was reprimanded by the man behind the desk.

After that we went out. Some one of the gentlemen present suggested a game of pool, and requested me to allow them to play in my pool room. I stated that I would, that it was late, but if they would be quiet and gentlemanly I would permit them to do so. They were, nearly all of them, drunk.

We went down Columbus Avenue to my pool parlor. I entered the pool parlor by unlocking the door, and found my colored man sleeping on the second table from the front in the room.

We entered into a game of pool, the four of us. Mr. DeCamp dropped out of the first game, as he was so drunk he couldn't play. He stood in the front of the pool room back of the counter with the colored man, and we went on with the game.

191
CASE 361

The game had been finished, and Mr. Carroll and Mr. DeCamp put on their coats and went out together, and Mr. Carroll saying to me, "Goodnight".

Frank Clabby then followed them. I had not at that time had on my overcoat, not as yet. When Clabby had gone a few minutes, I followed out, closing the door behind me, went up to the top of the stairs. Clabby at that time was at the corner, as I should judge from the top of the stairs. Mr. Carroll and Mr. DeCamp were not in sight.

When I left the poolroom, I went out with the intention of going home. I said so to my colored man. I walked to the corner and started across the street and turning around I saw Mr. Carroll and Mr. DeCamp walking up the street arm-in-arm.

When DeCamp knocked Carroll's hat off, I saw him beat him unmercifully on the head, by the motions, until he fell on the sidewalk. Francis Clabby was standing on the corner, and ran up to Mr. Carroll, when Mr. Carroll was on the ground, and the three of them were wrestling on the sidewalk.

I was frightened, paralyzed with fear at seeing them, and I turned and hurried from the spot. I got up to 80th Street and Columbus Avenue, when I heard someone calling; I went right across the park over 81st Street, between Columbus Avenue and Eighth Avenue, and there hesitated, as I heard DeCamp calling for me to halt, which I did. He called me across the

street. I went over, and he said, "Come on;" and started towards Eighth Avenue.

In going to Eighth Avenue, DeCamp put his hand over to me, put his hand in my pocket and said, "Here is something for you; don't say anything about what you have seen." I said nothing, and went with him to Eighth Avenue.

At the corner of Eighth Avenue and 81st Street, we turned south and went down Eighth Avenue to the first lamp-post, about a quarter of the distance between 81st Street and 88th Street. There, DeCamp stopped, and took a club out of his pocket.

Clabby said, "What did you hit the man with?" He said, "I hit him with the club."

Before we had reached this corner -- before we had reached the lamp-post, I took the ring out of my pocket and gave it back to Mr. DeCamp, telling him that I did not want to have anything to do with it; that I didn't want it. He took it. Clabby then took from his pocket a pair of cuff buttons, which he said he had taken from the person of Mr. Carroll.

DeCamp said, "Come on!" And we went down Eighth Avenue. Going down Eighth Avenue, the conversation was between Clabby and DeCamp as to what he was going to do with the club. Clabby advised Mr. DeCamp to throw the club away. Mr. DeCamp said no, he would take it home and burn it up.

NUMBER 17

9 3 1 0

196-7-161

We had reached 76th Street and turned west to Columbus Avenue. In the middle of the block DeCamp took his pistol out of his pocket and threatened to shoot either one of us if we said one word of what had happened. He then started towards Columbus Avenue, where he said, "I am going home". Clabby and DeCamp went down 76th Street towards Amsterdam Avenue. I turned north on Columbus Avenue, went up towards 79th Street. My desire and my intention in going to 79th Street and Columbus Avenue was to see what damage they had done to that gentleman. I couldn't find him.

I took a car and went home. When I got to my home I took my overcoat off and placed it on a chair, and when I was taking my handkerchief out of my pocket I noticed on the floor a diamond, which I could not account for; neither did I know where it came from. I was frightened; I was astonished. I didn't know what to do or what to say; consequently I took and hid the diamond, with the intention of returning it to Mr. DeCamp the next day, if it belonged to him, or to Mr. Carroll. I didn't know where it came from.

Q What did you do with the diamond? A I placed it under the carpet in my room.

Q Whereabouts? A On the northeast corner of the room.

Q After that were you arrested? A I was not arrested

195

195

until the next morning.

Q What took place the next morning? A I was sent for by the Captain of that precinct in which my room was.

Q Did you meet him? A I did.

Q Where? A In my poolroom.

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

Q What was the conversation? A He asked me if I knew of any trouble the night before, and I told him I did not.

Q Did you afterwards go to the 68th Street station?

A In the company of officers Coleman and Cleary; yes, sir.

Q And did you have any conversations there with any of the officers? A Not that day.

Q Did you at any other time? A I did the next day.

Q With whom? A Captain Kear.

Q What conversation did you have with him? A I explained to him exactly the statement I have made here to-day.

Q What did he say to you? A He said nothing -- he said ~~xxxxxx~~ "It is too late for you to say anything now; I gave you an opportunity yesterday when I was at your poolroom."

Q Did you afterwards -- what was done with regard to the diamond; what was said with regard to the diamond which was afterwards found in your room? A Jack Cleary came to me in my cell, --

Q Who is Jack Cleary? A Jack Cleary, the detec-

CASE 361

tive,-- came to me in my cell and said, "Do you know anything about a diamond?" I said, "Yes, sir; I found a diamond in my house". He said, "Well, if you tell us where we can find it, it will go easy with you; if you don't, it will go against you;" and I told him where he could find it. I had no conversation with Officer Coleman or Officer Douglass regarding that diamond or jewelry.

Q That was the only conversation? A That is the only conversation I had about the stone.

Q Mr. Hunsaker, how were you dressed on that night?
A I had on a black coat and vest, striped trousers and an English walking coat and a black derby hat.

Q Did you have any money of your own at the time?

MR. TRAIN: Objected to. I don't see how that is material at all.

THE COURT:

I agree with you, Mr. Train, but I will receive it from charitable motives.

MR. FITZGERALD: If your Honor please, I did not hear.

THE COURT: I am going to allow you to ask the question, though I agree with Mr. Train that it is of very little importance.

BY THE COURT:

Q You may answer the question. A I had about fifty

0213

CASE 77361

dollars.

BY MR. FITZGERALD:

Q Did you have any jewelry on you at the time? A I had a diamond ring upon my finger, an opal pin in my tie, a gold watch and gold fob, and a gold cigar cutter.

Q Mr. Hunsaker, at any time going down the avenue, did you see, in the presence of Clabby or in the presence of DeCamp, that you wanted that ring, or that diamond, for Mrs. Hunsaker? A No, sir; no such conversation took place.

Q This corner of 79th Street and Columbus Avenue -- will you describe the corner? A The corner of the building is cut off, making an entrance to ~~the~~ a corner store about 12 feet wide. On the outside of the sidewalk, there is sod laid there. The sidewalk is narrow to the extreme end of the Brady property. At the end of the Brady property the sidewalk assumes its ordinary size. That is made of pavement.

Q Now the corner of the building, does the Columbus Avenue side of the building, and the 79th Street side of the building meet at a right angle? A You mean like that (Indicating)?

Q I mean at a right angle? A No, sir; they do not. The front of the building is cut across here (Indicating) to allow an entrance to the store on the corner, making the corner on the 79th Street side about ten feet from the corner on the Columbus Avenue side.

FEBRUARY

FEB 21 1917

CASE # 361

Q So that a person walking down Columbus Avenue would have to turn one corner and go to the other corner before he could look up 79th Street? A Yes, sir.

Q Now, what is there on 79th Street? A I don't quite gather what you mean.

Q Do you recall whether there are shade trees there? A No, sir.

Q Do you know how far -- I won't ask you that. Did you at any time talk with Clabby about this case? A The only conversation I had with Clabby was in the 54th Street jail upstairs, where Clabby told me that --

MR. TRAIN: Now, I object. That is not the proper way. He asked him if he had any conversation.

THE COURT: That is answered. Now, go on with your conversation.

MR. FITZGERALD: I asked what the conversation was.

MR. TRAIN: There is no foundation for it that I know of, but I have no objection.

MR. FITZGERALD: Foundation? Why, it has been shown, all the conversations.

THE COURT: There is no need of argument at all, Mr. Fitzgerald. Your position is sustained. It may be answered.

BY MR. FITZGERALD:

Q What conversation did you have with Clabby? A He told me that Mr. DeCamp intended to reward him for anything

CASE # 361

that he might do for him in the way of clearing him of this charge.

MR. TRAIN: (Producing pistol) Here is your revolver.

MR. FITZGERALD: It is not my revolver, and it has not been proved to be such. I object, if your Honor please, to such statements in the presence of this jury.

MR. TRAIN: I understood --

THE COURT: Gentlemen, you will pay no attention to these statements whatever. Now, proceed, Mr. Train.

CROSS-EXAMINATION BY MR. TRAIN:

Q For my own sake, I would like to say that in the opening --

THE COURT: There is no use. I do not mean to suggest, by my caution to the jury, anything of criticism upon either one of you gentlemen. I simply instruct them to pay no attention to these conversations. Now, proceed, Mr. Train.

BY MR. TRAIN:

Q I show you a revolver, Mr. Hunsaker. Did you ever see that revolver before? A Yes, sir.

Q Whose revolver is it? A It belongs to Oscar Walker, my house man in my pool room.

Q When did you last see it? A On the 3rd of March.

9 2 1 1 1

193 7 361

Q What time of day or night? A I saw it in the day and saw it in the evening.

Q Where was it when you last saw it? A In the case.

Q What case? A Cigar case.

Q Your cigar case? A Yes, sir.

Q In your pool room? A Yes.

Q And how long had it been in that cigar case? A I couldn't really say.

Q Was there any other revolver there? A No, sir. None except Mr. DeCamp's.

Q Mr. DeCamp kept a revolver in your pool room? A He did not, no.

Q Was his revolver there? A He placed it on top of the case on the evening that he came in there.

Q What time was it that he put it there? A I couldn't say when he came down to the pool room, to play pool, in the evening.

Q With Mr. Carroll, or before? A With Mr. Carroll.

Q When he came in with Mr. Carroll, you say that he put his revolver on the cigar case? A Yes, sir.

Q Was his revolver in a case? A What do you mean by a case?

Q Was it enclosed in anything, or was it free? A It was free, like that.

Q Was this revolver which you say Mr. DeCamp had shown

RTS 5

CASE 77361

in Kennelly's? A I didn't see him show any revolver in Kennelly's. This conversation was told me.

Q I thought you testified that DeCamp exhibited a revolver? A I was told that he exhibited a revolver.

Q You did not say that on your direct examination? A I intended to say that Mr. DeCamp showed a revolver, which I was told he did.

Q Which you were told he did show? A Yes.

Q Oh, I see. Well, inside the cigar case, then, when Mr. DeCamp laid his revolver on top of it, was another revolver, and that revolver is lying here before you? A That is the revolver that was in the case at the time (Indicating).

Q And there was no other one there at the time? A No, sir.

Q And that belongs not to you, but to your colored man? A Yes, sir.

Q Did he keep his revolver there all the time?

A In his overcoat pocket, yes.

Q In his overcoat pocket? A Yes.

Q Did he keep it in ~~a~~ the cigar case regularly? A No, sir.

Q Can you account for its being in the cigar case on that evening? A I cannot.

Q Did you know it was there? A I saw it.

Q Did you know whether it was loaded or not? A I did not.

CASE 361

Q And you did not see that taken out of the cigar case by any chance? A I did not.

Q And it was there the next time you returned to the poolroom? A I couldn't say whether it was the next morning or not. I didn't see it.

Q Did you ever see it again? A I saw it in the 68th Street station house, yes.

MR. TRAIN: I will ask to have this revolver marked for identification.

It is marked "For Identification People's Exhibit No. 8."

Q Before being with the Lee Lash Company, and one or two other concerns, were you not in the West? A yes, sir.

Q How long did you live in the West before coming East? A I was in San Francisco from 1894 to March 19th, 1900.

Q And you were born where? A Born in Brigham City, Utah.

Q Utah? A Yes.

Q How old are you? A I am twenty-eight.

Q And how long have you had a step-son named Walter Shannon? A Since the 7th of November, 1900.

Q How long have you known DeCamp? A About two weeks previous to March 3rd.

Q How did you become acquainted with him? A As an

EXHIBIT
9 2 1 9
CASE 77 361

ordinary patron in my place.

Q As a patron? A Yes, sir.

Q Did you see him there frequently? A He was there during the every day and sometimes ~~every~~ evening.

Q Did you have friendly relations with him? A Not any more so than anyone else there.

Q You regarded him as a friend? A I simply regarded him as a patron of my place.

Q As a patron; not as a friend? A I had no calls upon his friendship, none whatever.

Q No, but did you regard him as a friend? A I did not.

Q Did not? A No, sir.

Q How did you know Clabby? A I met Clabby at my house on January 1st, when I entertained a number of young gentlemen.

Q He was one of the young gentlemen? A Yes.

Q Was he a friend of yours? A Well, he was an ordinary young fellow that came around the place, patronized the pool parlor.

Q You entertained your patrons then at your house?

A Previous to my assuming control of this poolroom, I did, to become acquainted with the boys that patronized it.

Q And these boys, DeCamp and Clabby, had been patrons of the place before you took charge of it? A DeCamp had not.

0220

191

Q Did DeCamp attend this little complimentary dinner?

A He did not.

Q Clabby was there? A Yes, sir.

Q So that your relations with Clabby were a trifle more friendly than with DeCamp? A Yes.

Q How well did you know Clabby? A I didn't know him except that he came into the poolroom. That was all I can say I knew about him.

Q And you had him to your house for dinner? A Yes, sir.

Q Before he had been a patron of yours? A Yes, sir -- I did not have him down to dinner; you misunderstood me. I entertained a number of callers on New Years Eve.

Q Now, on this evening of March, 1903, had you had your poolroom open that day? A Yes, sir.

Q Open all day? A Yes, sir.

Q And what time did DeCamp and Clabby arrive? A I couldn't say. They were there when I got there in the evening.

Q When you got there, they were there? A Yes, sir.

Q Had you ever been out around the streets with DeCamp and Clabby before? A Never in my life; no, sir.

Q And in response to whose suggestion did you go out with them on that occasion? A DeCamp's.

Q What did he say? A He said, "Come up to the corner and have a drink."

Q Had you ever gone out and drank with him before? A May-

1903
CASE 77361

be on one occasion before.

Q Had you ever been out drinking with Clabby before?

A No, sir.

Q Had you been drinking anything that day? A I had not.

Q You did not touch a drop? A No, sir.

Q Did DeCamp at that time, or Clabby, show any signs of intoxication? A I couldn't say.

Q You observed later? A I didn't notice it.

Q Didn't you at any time? A I noticed later in the evening that they were both intoxicated, yes.

~~Q But not at that time? A When they proposed to go out; no, sir.~~

Q And you went out? A Yes.

Q Leaving whom in the billiard parlor? A No one.

Closed the door and went out, and left the coloredman to fix the tables and fix up the place.

Q You left only the coloredman there? A Yes, sir.

Q At that time were there other people there? A Might have been someone else there; I don't remember.

Q Now, I want to know, Mr. Hunsaker, when, in response to this invitation of Mr. DeCamp's, as you say, you left the poolroom in his company, you and DeCamp and Clabby did not leave that poolroom, leaving only the colored man?

1923

19

A I did not. You say I did not leave it, do you?

THE COURT: He asks you.

BY MR. TRAIN:

Q Was there any person except the colored man there when you three left? A I was closing up my place of business.

Q What time was it? A Probably half-past eleven, or twelve o'clock.

Q And they were the only two customers who happened to be there? A At the time of closing up; yes, sir.

Q And it was an entire chance that you happened to go out with them? A Entirely so.

Q Now, as you went out, did you take the revolver out of the case? A I did not, sir.

Q Did you at any time during the evening have a revolver on your person? A No, sir; I did not.

Q And it was not at that time that you noticed the revolver in question in the case? A No, I didn't see the revolver there.

Q So then where did you go? A Went up to the saloon.

Q What saloon? A The Orleans Cafe, corner of 80th Street and Columbus Avenue.

Q Now, was that open? A Beg pardon?

Q Was that open? A Yes, sir.

Q Did you go in and take a drink? A Yes, sir.

Q How many drinks did you have? A I had three.

Q What did you have? A Scotch high-ball.

Q Three Scotch highballs? A yes, sir.

Q What did Mr. Clabby have? A Beer.

Q How many glasses? A Presumably the same number.

Q Well, what did DeCamp have? A I think he took rye.

0 2 2 1

61

1 high-balls.

Q From there where did you go? A Down 80th street to Amsterdam avenue.

Q It was getting along pretty well towards morning, wasn't it? A I presume it was.

Q Where did you go?

A To No. 104, I think it was, West 80th street.

Q What is that?

A Where a lady friend of mine lived.

Q Oh, a lady friend? A Yes.

Q Going to make a call? A Going there on business.

Q What business did you have? A Personal business.

Q What was it? A I decline to answer.

Q On what ground? A I do not consider my personal business of any consequence in this case.

Q Perhaps the jury may. Now, supposing you tell us what your business down in that place was? A I had loaned the lady \$17 on a ring, and she was going away the following morning, and she wanted to pay me the money.

Q She wanted to pay you the money? A Yes.

Q And you were going down to oblige her at one o'clock in the morning? A Yes.

Q Now what was this lady's name? A Miss McCall, I think it was.

Q And what was the number of the house? A I think 104 West 80th street, or 204; I wouldn't say. It was on the

196-7-161

other side of Amsterdam avenue.

Q You had loaned this lady money for a ring? A Yes, sir.

Q At her request? A Yes, sir.

Q How did you come to loan her money? A She requested me to do so, saying she was hard up.

Q Well, you had some difficulty in remembering her name, I observed? A Well, it just simply slipped from my memory for the money, that was all.

Q Are you accustomed to loaning money on jewelry?

A No, sir, not accustomed.

Q Have you-- A No, sir.

Q -- made any other loans on jewelry? A No, sir.

Q That was the only one? A Yes, sir.

Q And where was it that you loaned this money to her; at her house? A No, sir; at 79th street and Columbus avenue, about two weeks previous to that time.

Q where; in what place? A On the street; she called for me downstairs in my pool room and I went upstairs and did so.

Q You went up to her room? A No, sir; went up on the sidewalk and met her.

Q This lady called on you? A Yes, sir.

Q Had you known her previously? A Yes, sir.

Q And you loaned her this \$17 on a diamond ring? A Yes.

Q And the lady's name was McCall? A I think so; I would-

CASE 77361

3

n't say positively.

Q Do you recall the name of the gentleman with whom she lived? A No, sir, I do not.

Q Wasn't it Mr. Lord? A I think that was the name, yes, Lord.

Q Now in point of fact was not the purpose for which you went to see Miss McCall, who lived with Mr. Lord in a room, more intimate in nature than getting the return of your \$17?

A No, sir.

Q Quite sure? A No, sir.

Q You didn't make any such statement to Mr. De Camp either? A No, sir.

Q Well, did you enable Miss McCall to return to you your loan of \$17? A I could not see her. The hour was very late.

Q How late was it when you reached Miss McCall's?

A About one o'clock.

Q From there where did you go? A Up Amsterdam avenue.

Q What was the first stop you made? A 81st street and Amsterdam avenue.

Q Did you get a drink at Miss McCall's? A No, sir.

Q What was the stop? A Mr. De Camp stopped to talk to a policeman.

Q What was the first stop at which you resumed drinking?

CASE 77361

A In Kennelly's restaurant.

Q How many drinks did you have in there? A One.

Q What was it? A A Scotch high ball.

Q Did you observe what the others drank? A I think Mr. De Camp drank rye whiskey and Mr. Carroll took a whiskey. Chabby took a cocktail, I think.

Q Did you observe whether at that time whether they showed signs of intoxication? A They did, yes.

Q Were they slightly drunk? A They were very boisterous. in the place.

Q Very boisterous? A Yes.

Q What was your condition? A I was perfectly sober.

Q Absolutely sober? A Absolutely sober.

Q And I suppose you remained absolutely sober throughout this eventful evening? A Yes, sir.

Q Now this was at Kennelly's where you got the one Scotch high ball? A Yes.

Q From there where did you go? A Down to my pool parlor.

Q How did you happen to go to your pool parlor?

A Someone suggested to play a game of pool.

Q Didn't you suggest that they should return there?

A I don't remember.

Q Do you deny that you suggested to return to your pool parlor? A I don't remember having made any such statement.

9 2 3 2

CASE 77-361

Q No; my question was, do you deny having suggested to return to your pool parlor? A I deny having asked anyone to go there, yes; I do.

Q So that it was not you who were the originator of the plan to open up your pool room at two o'clock in the morning?

A I was not the originator, no, sir.

Q And you all returned to the pool room? A Yes, sir.

Q Mr. Carroll, drunk? A No; he was not drunk. He was feeling pretty good, but not drunk; though he was not sober by any manner of means.

Q Would you hesitate to call him drunk? A No, sir, I would not.

Q Then he was drunk? A Apparently.

Q That is what I asked you? A He was not what you would call staggering drunk.

Q What? A Not what we call staggering drunk.

Q Not what might be called staggering drunk? A No, sir.

Q Was he able to play pool? A Yes, sir, he was.

Q Easily? A Apparently, yes, sir.

Q Didn't show the effect of his liquor in the way he played? A No, sir.

Q He was merely boisterous? A Yes.

Q Now Clabby, how drunk was he? A Well, he was not so intoxicated that he didn't know what he was doing.

Q Was he staggering drunk? A No, sir.

19

Q Did he show the effects? A Showed the effects of his drinking in his face. It was flushed; and in his actions.

Q And didn't show the effect of it in the way he played pool? A No, sir; he did not shoot his usual game of pool, though.

Q Wasn't up to his standard? A No, sir.

Q How about Mr. De Camp? A Mr. De Camp was about the same as Clabby, I guess-- he was worse than Clabby, I guess; he couldn't play pool; he couldn't shoot at all.

Q He was so drunk he couldn't do a thing? A He couldn't shoot. I only say he couldn't play at all.

Q Well, he quit? A Yes, sir, he quit, because he could not play. He was a very bad player anyway.

Q Now, as he walked along the street, did he stagger? A No, I think not; I didn't notice whether he did or not.

Q Didn't observe? A No, sir, I did not. I was walking in front of De Camp.

Q Now, you were perfectly sober? A Yes.

Q And you were in the company of three gentlemen all of whom were drunk? A Yes, sir.

Q Didn't you observe whether De Camp staggered or not as he walked? A No, he didn't stagger. His manner was more boisterous.

Q But he was so drunk that he couldn't play? A He could-

198-361
CASE 7-361

n't shoot a game of pool.

Q Who started in to play? A The four of us.

Q All four? A Yes, sir.

Q And how many frames did you four play? A De Camp played one frame.

Q And then dropped out? A Yes.

Q Then what did he do? A Went up and stood in front of the pool room.

Q When he came in you say he took a revolver and laid it on the table? A I saw it on top of the counter.

Q Did you see him put it there? A No, sir, I did not.

Q Had you seen that revolver before that evening?

A I had seen it again that evening. I had seen it once before that evening.

Q On the table? A No, sir; in the street.

Q How did you come to see the revolver in the street?

A He shot it off in the air.

Q How many times did this patron of yours shoot his revolver in the air? A Once.

Q Only once? A Only once.

Q Didn't that surprise you? A I was very much surprised.

Q And you had never taken a midnight stroll like this before with Mr. De Camp? A No, sir.

Q And it did not occur to you at all that it was undesirable that you should remain in his company? A I didn't

1937
230

CASE 7-361

think it at all.

Q But you were sober? A Yes, and I simply thought, on account of his being intoxicated, he didn't know what he was doing. Slabby took the revolver away from him and put it in his pocket.

Q Didn't you say at Kennelly's that they couldn't come down to your billiard parlor unless they were quiet? A Yes.

Q Now, De Camp had not been quiet? A Well, he promised to be quiet.

Q You knew he had not been; you knew he was shooting his pistol-- It was after that that he shot his pistol off, wasn't it? A No, sir.

Q Before you went to Kennelly's? A Yes, sir.

Q So you knew he was in a mood to discharge his pistol without any apparent cause? A He did not have the pistol after we left Kennelly's.

Q You had taken it from him? A No; Slabby had taken it.

Q So you felt perfectly safe, Mr. De Camp having lost his gun; is that right? A Felt safe from what?

Q Well, that you would not be shot and have anything happen to you by reason of Mr. De Camp's characteristics?

A I didn't anticipate being shot by Mr. De Camp or anyone else.

Q Now De Camp dropped out after playing one game?

A Yes.

Q What did he do? A Stood in ^{the} front of the pool room,

9231
CASE #361

9
back of my cigar counter.

Q How long did he stand there? A Probably half an hour, talking to the colored man.

Q How long did you play? A I played up to the end of the game.

Q How many frames probably? A probably three frames; three or four; I don't remember.

Q In the very last? A Yes, sir.

Q And then how did the game terminate? A By Carroll stating that he wished to go home.

Q You had not said a word to De Camp? A Not one word.

Q And De Camp had not said a word to you? A No, sir.

Q And that is as true as anything which you have said?

A That statement is true, the same as the rest.

Q Who went out first? Carroll? A Mr. Carroll went out first with Mr. De Camp with him.

Q Did you see De Camp put on his overcoat? A I did.

Q Did you see anything in the pocket of the overcoat?

A I did not.

Q Did you have a billiard cue end? A There was two pieces in the pool room when I bought the pool room, yes, sir.

Q Is that (showing) one of them? A I think so, yes, sir.

Q That was in your pool room to your knowledge then on the evening of the 3rd of March? A Yes, sir.

1936
MAY 23 1961

Q Did you see it there during the evening? A I did not.

Q You did not know where De Camp got it, do you?

A I couldn't say where he got it, no, sir.

Q Did you observe that he had it in his pocket when he went out? A I did not, no, sir.

Q Did you see anyone give him anything? A I did not, no, sir.

Q Did you observe anything about De Camp before he went out? A I did not.

Q Where was the colored man? A Behind the counter.

Q Where De Camp was? A Yes, sir.

Q Who went out next? A Clabby.

Q How long after the first two? A Oh, a couple of minutes, I guess.

Q And then did you go out? A Clabby preceded me.

Q And then yourself? A I then went out.

Q How long after Clabby did you go? A Probably two or three minutes; two minutes or a minute and a half; something like that; I couldn't say exactly.

Q Did you lock the door? A I did not, no, sir.

Q Did you put out the lights? A I did not, no, sir.

Q You left the colored man in charge, did you? A Yes, sir.

Q Now you intended to go home? A I did.

1967
CASE 77-361

11

Q At once? A Yes, sir.

Q And you climbed up the stairs to the sidewalk? A Yes, sir.

Q And when you reached there did you see anything?

A I saw Clabby standing on the corner-- going towards the corner.

Q He was going towards the corner? A He was standing on the corner; I couldn't say exactly just where he was standing.

Q How far from you was he? A He was probably the distance of 40 feet from me.

Q You could see him plainly? A Yes, sir.

Q What did you do? A I walked towards him with the intention of taking a Columbus avenue car on the corner.

Q Did you see Clabby stop?

A He stopped on the corner, yes.

Q Did you overtake him? A I did overtake him, yes.

Q Did you converse with him? A I did not speak to him.

Q Did you pass him? A I did pass him.

Q Did you turn when you passed him?

A Yes; when I passed him to go across the street to take a car.

0 2 3 4
CASE # 361

Q You left Glabby standing on the corner?

A Yes.

Q And then you saw something?

A Yes.

Q What did you see?

A Mr. Carroll and Mr. De Camp walking up 79th street towards Amsterdam avenue.

Q How far away from you were they?

A I couldn't say exactly. They were the other end of the Brady property. The night was extremely dark and very foggy.

Q But you could see them?

A I could discern two people walking up the street, yes, sir.

Q Did you know they were De Camp and Carroll? A I recognized them as being the two gentlemen, having just left my pool room.

Q These people were not so drunk that you felt any responsibility about taking them home?

A None whatever, no, sir.

1987-361

Q Had you commented to anybody on the fact that Mr. Carroll seemed a little bit unable to take care of himself?

A No, sir.

Q You did not say that to De Camp? A No, sir.

Q Well, did you watch De Camp and Carroll? A No, sir, I was waiting for a car.

Q What happened? A I saw De Camp knock Mr. Carroll's hat off and strike him on the head with presumably something; I didn't know what it was, but I saw him strike him on the head.

Q And when you saw that you were 125 feet from them?

A I couldn't exactly say what the distance was, because I never measured it.

Q How far would you say it was? A I couldn't say; maybe 100 feet.

Q You were perfectly sober? A I was perfectly sober.

Q Waiting for a car? A Yes, sir.

Q And of the gentlemen who were across the street, of those two, one was so drunk that he couldn't play the game of pool and the other was intoxicated; you saw the one who was so drunk that he couldn't play pool, not the other one's hat off, and then strike him? A Yes.

Q And that what did the other one do? A Put his hand up as if to protect himself.

1961

Q Like that (indicating)? A Yes, sir, and turned around-- threw his hands in the air and turned partially around, facing Columbus Avenue.

Q Were you not interested? A No, sir; I was frightened to death.

Q You were some distance away? A I certainly was, yes, sir.

Q But you nevertheless were frightened to death?

A Yes, sir.

Q And did you stand and watch what Mr. De Camp was doing to Mr. Carroll? A I did not stand and watch, no, sir.

Q How many blows did you see him strike him? A I could not say how many blows he struck him.

Q Did you see one? A Yes.

Q Two? A Yes.

Q Three? A Yes.

Q Four? A I couldn't say.

Q Are you sure you saw three? A I am sure I saw three blows struck, yes, sir.

Q Did you see the effect of those three blows? A I saw Mr. Carroll fall on the sidewalk.

Q Was that before Clabby had approached? A No, sir.

Q Then De Camp was striking Carroll up to the time that Clabby arrived? A Yes, sir-- Clabby was standing on the corner.

1937
CASE # 361

Q Well, didn't Clabby run up to them? A Yes, sir.

Q And when he ran up they were still standing? A No, sir, they were not.

Q Then Mr. De Camp had succeeded in knocking Mr. Carroll down before Mr. Clabby got there? A He had.

Q And you think there were not three blows struck?

A I could not say how many blows.

Q You saw three blows? A I saw three, yes.

Q Were they vicious blows? A Yes, sir.

Q Very vicious? A Yes.

Q Have you ever seen, in all your experience in the West or elsewhere a more vicious attack upon anybody? A I have never seen any attack in my life of its kind.

Q But you characterize this as extremely vicious, do you? A As extremely vicious, yes, sir.

Q And so vicious that it terrorized you, who were some distance away? A Yes.

Q Now, how long were De Camp and Carroll struggling on the sidewalk before Clabby arrived? A A very few minutes a very few seconds, you might say.

Q Did Mr. Carroll move after he fell? A He struggled with De Camp on the sidewalk.

Q Did you see De Camp strike him as he lay there? A I did not, sir. When I saw Clabby reach Carroll's side

CASE 77361

I turned and ran.

Q Didn't you say on your direct examination that you saw all three wrestling together? A I did.

Q Then you waited long enough to see that? A I said I waited until I saw Clabby reach Carroll's side; then I ran.

Q Well, he did more than reach Carroll's side, did he not; he engaged in the struggle? A Yes; when he ran up to Carroll he kneeled down at the side of the man like this (illustrating).

Q What did he do? A I then turned and left them. I didn't see what they did.

Q Didn't you say you saw him take some cuff buttons? A I did not; no, sir.

Q Didn't you see him struggling with Carroll? A I saw him struggling with Carroll.

Q You did not see him do anything but kneel down? A That is all.

Q Now, while Clabby was kneeling were Carroll and De Camp? A I couldn't say.

Q Then what did you mean in your direct examination be saying that they were all three struggling together on the sidewalk? A When Mr. Carroll fell down De Camp was on his right side. Do you understand?

Q I understand. A Clabby then ran up to Mr.

CASE # 361

0 2 3 4

5

Carroll and knelt down on his right side, or on the outside of the sidewalk. When I saw the three of them there, I turned and ran up Columbus Avenue.

Q How were they struggling? A Mr. De Camp and Mr. Carroll were struggling, yes, sir.

Q On the ground? A On the ground, yes, sir.

Q And Clabby was not; he was kneeling? A He was kneeling, yes, sir.

Q That ~~was~~ is what I want. Now, do you know why Clabby ran up? A I don't know, no, sir.

Q You didn't see him do anything? A No, sir.

Q Except kneel down? A That was all.

Q You saw this vicious assault; you were filled with fear; you saw another man running up? A Yes, sir.

Q And you turned and ran yourself? A Yes, sir.

Q Now, when did you next see any one of those three persons? A Next three persons?

Q Any one of those three that you have mentioned? A I saw Mr. Carroll in the 54 th Street Court two weeks afterwards

Q Who was the first one you saw that night? A De Camp.

Q Where were you when you saw De Camp? A On the north side of 81st Street.

Q Were you still running? A No, sir; I had stopped; I was excited.

CASE # 361

Q You stopped; you were accosted? A Exhausted.

Q You were so terrified that you ran until you could run no further? A Yes, sir.

Q And when you stopped, so exhausted, what did you do?
across

A I started walking towards Eighth Avenue.

Q You could still walk? A Yes, sir.

Q How far did you get? A Probabyl ten or fifteen steps.

Q Then what happened? A Then De Camp came to the other side of 81st Street and called to me.

Q How far was this from the scene of the assault?

A Well, it was on 81st Street between Columbus Avenue and Eighth Avenue.

Q How far was it? A Well, you can figure it up for yourself.

Q I ask you, Mr. Hunsaker. A From 79th Street and Columbus Avenue to 81st Street, between Columbus Avenue and Eighth Avenue. I don't know how far it was.

Q You had not run very far? A I had run two blocks and a quarter, I presume.

Q And it exhausted you to run two blocks and a quarter?

A Yes, sir.

Q Were they long or short blocks? A You know how long they are.

Q No, I don't. A Well, I don't. They are ordinary

9 2 5 11
CASE 77 361

8

blocks.

Q Avenue blocks? A Yes, sir.

Q You heard De Camp call you? A Yes, sir.

Q Now De Camp was the man who had made this vicious assault? A Yes, sir.

Q Did you stop? A I did not stop.

Q Did you begin to run again on 81st Street when you ~~heard~~ heard De Camp call? A He even called me on the avenue.

Q Called, on the avenue? A Yes, sir.

Q What did he say? A He yelled, "Stop!" and I didn't stop. I kept on running.

Q You were then running? A Yes, sir.
from where

Q How far had you gotten, ~~when~~ you were standing to take the car, and when you first saw this assault, to where you heard De Camp call you? A I was up between 80th and 81st Streets, corner of 80th Street and Columbus Avenue, so as to cut across the corner of the park.

Q Did you see where De Camp was when he called?

A No, sir, I did not.

Q At that time you were running? A Yes.

Q So you became exhausted and stopped? A Yes.

Q Now, after you stopped did De Camp call you again?

A He was coming across the park on the south side of 81st

191
77
361
CASE 77-361

Street.

Q Was he running? A I don't know whether he was or not.

Q You saw him somewhere? A I saw him come up to the sidewalk, yes.

Q What did he say to you? A He called me across, sir.

Q Did you cross over? A Yes.

Q You obeyed his request? A Yes, sir-- under any circumstances.

Q And you had ceased to be frightened? A No, sir.

Q You were then palpitating with fear? A Yes.

Q What did he say to you? A Nothing-- he said, "Come on!"

Q Did you go? A I did.

Q Had Clabby appeared then? A Yes, sir.

Q When did he arrive? A Right after De Camp.

Q Before or after you had joined De Camp? A He had reached De Camp's side when I crossed over.

Q And you three started on together? A Yes.

Q And did they still show signs of intoxication?

A No, sir, they did not.

Q De Camp, did he show any signs of intoxication?

A No, sir, he did not.

Q He seemed to have sobered up? A He seemed to have

10

sobered up, yes, sir.

Q How far did you go before anything was said about this assault? A Over to 81st Street and turned down 81st Street.

Q Didn't you ask anything about it? A I did not, no, sir.

Q Who was the first one to speak? A De Camp.

Q What did he do? A Took the club out of his pocket, I think.

Q Is this (showing) the club? A Yes, sir.

Q Did you observe its condition? A I did.

Q What was its condition? A Covered with blood.

Q All over? A Yes, sir, and his hands were covered with blood.

Q What did he say when he took the club out? A Nothing he said he had struck Mr. Carroll with the club.

Q He said he had struck Mr. Carroll with the club?

A Yes, sir. Clabby asked De Camp what he had hit him with. De Camp put his hand in his pocket, took the club out and said he had hit him with that.

Q Clabby was there, wasn't he? A Yes.

Q Do you know why Clabby should have asked De Camp what he struck him with? A I couldn't ^{say} no, sir.

Q If you had been as near as Clabby you could have seen what DeCamp struck him with? A Presumably, yes.

CASE 361

11

Q What was said, then, after De Camp was so kind as to explain what he struck Carroll with? A He took a watch out of his pocket.

Q De Camp? A Yes, sir.

Q Now is this (showing) the watch that De Camp took out of his pocket? A I couldn't swear to it.

Q Does it look like it? A I couldn't say.

Q Didn't you pay any attention to it? A I paid ~~not~~ no attention whatever to it, no, sir.

Q Did he take anything else out? A Clabby, he took those cuff buttons out of his pocket.

Q I am talking about this, now? A I don't know; I never saw it up to this minute.

Q Did he take a ring out of his pocket? A That ring he had put into my pocket going over to Eighth Avenue and said, "You take this for your share; take this and say nothing about it." I gave it back to him when we got to the corner of 81st Street and Eighth.

Q Was this before or after he took out the watch?
A Before.

Q Was it before Clabby asked him what he struck Carroll with? A Yes, sir.

Q Then about the very first thing De Camp said was, "Here is a ring; take it for your share." A He put it in my

1937
CASE 77361

18

pocket going over 81st Street, sir, and said to me in an undertone, "Take this for yours."

Q This was after he had said, "Come on"? A Yes, sir.

Q And you had gone on? A Yes, sir.

Q And how do you know that he put it in your pocket? A Because I found it in my pocket afterwards.

Q And he said what? A "Take this for yours, and say nothing about what you have seen."

Q You felt it go in your pocket? A I didn't feel it go in, no, sir.

Q What did you think he meant? A I didn't know what too he meant. I was frightened then to think of anything else except to obey whatever he said.

Q You said he put something in your pocket? A Yes.

Q How do you know? A He said, "Here is something for you."

Q Then at the time you supposed he had put something in your pocket? A Supposed so. I didn't know because I didn't put my hand in my pocket to find out.

Q You supposed something was there? A I didn't know whether there was or not.

Q No, I didn't ask you that. But when he said, "Here is something for you", you assumed there was something there?

A Anyone would assume that.

9240
CASE 361

Q So at that time you assumed there was something in your pocket. You didn't know it but you thought it? A Well, naturally, under the circumstances any one would have thought it.

Q Did you think what was in your pocket was the proceeds of this vicious assault? A I did not.

Q What did you think it meant? A I didn't know what it meant.

Q Couldn't imagine? A I couldn't imagine, no, sir.

Q When you saw De Camp and Clabby and Mr. Carroll, had you no thought that possibly De Camp might be robbing him? A I had no thought. I thought they were fighting; that is what I thought.

Q And you had no idea that anything that belonged to Mr. Carroll could be in your pocket? A No, sir, I did not.

Q How long did you let this something remain in your pocket? A Until I got to 81st Street and 8th Avenue.

Q Why did you think that De Camp wanted to give you anything? A I didn't think anything about it and didn't know anything about it.

Q You did not give the matter any thought? A No, sir.

Q He said, "Here is something for you; this is for yours", and you were not sufficiently interested to put your hand in your pocket? A When I got to 81st Street I did.

0242

1961

14

Q Was De Camp still there? A Yes, sir.

Q How far did you walk with that in your pocket?

A Half a block.

Q Then you did become sufficiently interested to investigate? A Yes, sir.

Q Was that a result of being less terrified? A No, sir; but whatever he had given to me I wanted to return to him.

Q But that feeling did not occur to you right away when he put it in your pocket? A No, sir; but as we walked along I wanted to find out what it was.

Q You were not so terrified at the end of the half block's walk but what you thought of that? A I wanted to return it in the easiest way I could, so as not to excite his anger towards me.

Q At any time did you see anybody loosening a stone in this ring? A No, sir.

Q When you found this in your pocket was it wrapped in anything? A No, sir.

Q When you put your hand in your pocket after walking half a block you found this ring? A Yes, sir.

Q In its present condition? A In its present condition.

Q What did you say when you returned it? A I handed it

0240

19

15

back to him and said, "I don't want it."

Q And what did De Camp say? A He took it.

Q He did not attempt to force it on you? A No, sir.

Q What didn't you want it? A Because I didn't care to have anything to do with the proceeds of any robbery of the kind.

Q Then when you found it in your pocket you realized--

A No, sir, he told me at the corner that he had taken that ring from Mr. Carroll.

Q Was that after you had returned that ring to him?

A Yes, sir.

Q Then how did you know, when you returned it to him, it was the proceeds of a robbery? A I didn't know at the time that it was.

Q Then why did you return it to him? A I didn't want the ring. It did not belong to me.

Q Didn't you say the first time I asked you that you returned it because you did not want the imputation of any of the proceeds of a robbery? A He had told me what it was, after he forced it on me, I told him I did not want it.

Q Then you told him twice? A Yes.

Q Once before you knew it was the proceeds of a robbery and once afterwards? A Yes.

Q Hadn't he ~~accepted~~ accepted it when you handed it back to him? A Yes, sir. He said, "You might as well keep

CASE 361

16

it."

Q What did you say to him? A I said I didn't want it.

Q When De Camp told you that this was part of the proceeds of the robbery, what did he say to you? A What did he say to me?

Q Don't you understand my question? A I didn't hear your question.

Q I will speak louder. What did De Camp say to you when he told you that the ring was part of the proceeds of Mr. Carroll's robbery? A What did he say?

Q Didn't you hear that? A Yes.

Q Then I need not repeat the question. A He said he to it from Mr. Carroll.

Q Is that all he said? A That is all.

Q He said nothing else? A No.

Q Did he say anything? A No.

Q How long did you continue in the company of your patron, Mr. De Camp, after that? A Down to 76th Street and Columbus Avenue.

Q Did you have any more conversation? A I did not, no, sir.

Q Didn't you ask him anything about this assault?

A I did not, sir.

1937
CASE 77361

17

Q Well, you were perfectly friendly with him, were you not?
A I was not friendly with him. I said nothing to him, whatever.

Q He had handed you over a ~~xx~~ ring; that was certainly not a hostile act, was it? A I don't know what his intention was.

Q Well, he didn't threaten you with violence when he gave you the ring? A No, sir.

Q There was nothing hostile about that; you didn't think he was going to hurt, did you? A I didn't know what he was going to do.

Q Now, tell us how you happened to leave Mr. De Camp?
A He left me.

Q Had you stopped? A He stopped in the middle of 76th Street between Columbus and Eighth Avenues and pulled a pistol from his pocket and threatened to shoot either one of us if we said anything.

Q Is that (showing) the pistol he pulled from his pocket, People's Exhibit No. 8 for identification? A No, sir.

Q It is not? A No, sir.

Q You are sure of that? A Why positive.

Q What did he say when he pulled the pistol from his pocket? A Said he would shoot either one of us if we said anything about what we had seen.

CASE # 361

18

Q Then he left with Clabby? A Left with Clabby and walked through 76th Street, and then left me.

Q Didn't you say anything when he said he would kill you? A No, sir.

Q Had anyone ever threatened to kill you before? A No, sir.

Q Did you believe he would kill you? A Under the circumstances I thought he was crazy enough to do anything.

Q Crazy what? A Crazy, insane, from-- I don't know what he was---

Q From drunk? A I couldn't say what he was going on that way for.

Q Did you think he would kill you then, or at some other time? A I didn't know what he meant by it.

CASE # 361

Q Did you bid him good night? A He said he wanted to go home. I didn't say a word.

Q Did you see them while they walked away? A I saw them go down across the street.

Q And then what did you do? A I started up Columbus Avenue.

Q Did you immediately return to see what had happened to Mr. Carroll? A Immediately, yes.

Q And when you got there Mr. Carroll was gone?
A He was gone, yes, sir.

Q Now, did you see marks on the sidewalk? A I did not.

Q Did you see any blood there? A No, sir.

Q Then, what did you do? A Took a car and went home.

Q Took a car? A Yes, sir.

Q Did not call at the police station? A I did not, no, sir.

Q Didn't go to the police station? A I did not.

Q Did you see any officers on your way home? A No, sir.

Q Were you not horrified at this occurrence? A I was, yes, sir.

Q Weren't you not sufficiently interested in safeguarding the community to make any complaint at the police station?

CASE 77361

k 2

A I didn't think anything about it. I was entirely too worried and worked up over what I had already seen.

Q It never occurred to you? A No, sir.

THE COURT: We will suspend here.

The Court admonished the jury according to Section 415 of the Code of Criminal Procedure.

Recess until 2:00 P. M.

AFTER RECESS.

W A L T E R L. H U N S A K E R, the defendant, resumes the stand.

CROSS-EXAMINATION CONTINUED BY MR. TRAIN:

Q Well now, you were not so worked up that you could not go back and see how Mr. Carroll was? A No, sir.

Q Were you? A No, sir.

Q You were able to do that? A Yes, sir.

Q Then, why were you not able to give the alarm?

A I didn't care to implicate myself in it at all.

Q Did you think that by giving an alarm you would implicate yourself? A I didn't know anything about it, sir; I didn't think.

Q Didn't you just tell us this minute that you did not care to implicate yourself by giving the alarm? A I said that, yes sir.

Q You mean that? A Yes, sir, certainly.

1957

1957

k 3

Q How would it implicate you, if you saw this thing done? A Well, I didn't know; I didn't think of that, or anything, because I didn't want to get mixed up in this affair.

Q You did not have a pistol with you at all? A No, sir.

Q After you went to see Carroll, or see what had become of him, where did you go? A Took a car and went home.

Q Did you not go back to the billiard parlor? A No, sir.

Q When you got home what did you do? A Went up home and took off my overcoat and put it on a chair.

Q What else? A Undressed and got ready to retire.

Q Did you retire? A I did, yes.

Q Did you see any living person that night before you went to bed? A No, sir.

Q What did you do in the morning? A Captain Kear sent for me.

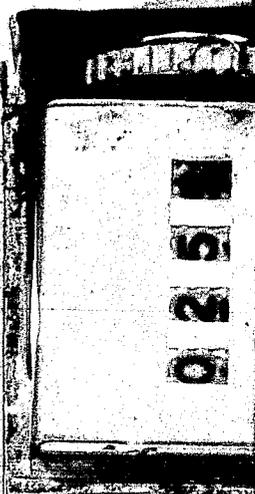
Q Did you go to sleep? A Yes, sir.

Q And what was the first thing that happened after you woke up in the morning? A I was awakened by the telephone ringing in my dining room.

Q Yes. A My children I believe answered the telephone and told me that Captain Kear wanted to see me at my pool room.

Q This message came from your place of business?

A Yes, sir, apparently.



k 4

Q .Do you know who sent the message? A Yes, sir; I think the colored man did.

Q What did you do? A I dressed and went down.

Q Direct to the pool room? A Yes, sir.

Q Immediately? A Immediately, yes, sir.

Q At that time had you seen any living soul? A No, sir.

Q At that time did you discover that you were in possession of a diamond? A I ~~first~~ discovered that that night when I came home.

Q Oh, you discovered that when you got home? A Yes, sir.

Q How long was it after you got home before you discovered that? A perhaps half an hour, when I went to seek my handkerchief in my overcoat pocket. Then, in walking around the room, I saw a diamond on the floor of my room.

Q When you saw this diamond what did you do? A I didn't know what to think; I didn't know where it came from.

Q You remembered that you had found a ring in your pocket?
A Yes.

Q And you had observed, had you not, that that ring was somewhat damaged? A Yes, sir.

Q Did it occur to you that the diamond might have come from a ring? A It did, yes.

Q Did you take that diamond with you when you went down to see Captain Kear? A No, sir.

19

k 5

Q ~~Why not?~~ A Because I intended to give the diamond back to whoever had lost it.

Q What did you think Captain Gear wanted to see you about? A I didn't know.

Q Had you no idea? A No.

Q And didn't it occur to you that it might be about the assault that you had witnessed the night before? A I didn't think about it.

Q That didn't cross your mind? A No.

Q What did you do with the diamond? A I concealed it under the carpet.

Q Why did you conceal it? A Because I was so worked up at having that diamond in my house, and thinking it might implicate me in the matter I determined to give it back to De Camp if it belonged to him or to give it to Carrell.

Q I thought you said you couldn't imagine where the diamond came from? A I did not imagine, but inasmuch as the ring had been in my pocket, I thought it might have fallen out as I had no loose stones that belonged to me.

Q But I thought you said that the fact that you had a ring in your pocket did not suggest anything to you?

A That suggestion was made by you.

Q Didn't the condition of this ring when you returned it to De Camp suggest to you, when you saw the diamond on the carpet, that it might have come from the ring?

CASE 77361

k 6

A I answered that before and said yes, sir.

Q So that at the time when you were sent for by Captain Kear you realized that the diamond you had found in your room might have been the proceeds of the robbery of the night before? A Yes, sir.

Q So you concealed that diamond? A Yes, sir.

Q For what purpose? A For no purpose whatever.

Q Wasn't it for the same reason that you did not immediately after report the affair to the police station?

A No, sir.

Q (Continuing) For the reason that you did not want to implicate yourself? A I either wanted to return it to Carroll if he lost it, or give it back to De Camp.

Q Didn't you think that a good thing for you to do would be to deliver it to the Police Station in your precinct?

A I think now it would have been better for me to have done so, yes.

Q But it did not occur to you to take it down to Captain Kear? A No, sir.

Q At that time, I don't remember whether you said that you had any idea what Captain Kear wanted ~~you~~ to talk to you about? A I had no idea whatever, sir.

Q Now, did you see any living soul between the time that you got up and went to your billiard room? A James

1967
CASE #7361

k 7

Shannon went down with me to the pool room.

Q Where was he? A In the house.

Q And when did you become aware of the fact that he was there? A When he came into my bedroom.

Q How early in the morning was that? A I was dressing.

Q Did you relate to him any of the circumstances?

A I did not, sir.

Q Did you tell him anything about the diamond? A I did not, sir.

Q Why did you put the diamond under the carpet? A I really can't explain, sir, except that I did not want to have the diamond in my possession.

Q Then you went down to Captain Kear? A Yes, sir.

Q Not having told James Shannon a word of what had happened? A Not having told him a word.

Q Do you know where James Shannon went when you went to see Captain Kear? A He went into the pool room with me.

Q He went with you? A Yes.

Q State what happened in the pool room? A Captain Kear asked me if I knew of any trouble that had occurred last night, or if Robert De Camp and Frank Clabby---Mr. Clabby--were there; and I said yes.

Q You said you knew there was some trouble? A No, he asked me if they had been in my pool room.

k 8

Q Didn't he ask you whether there had been any trouble?

A Yes, sir.

Q What did you say to that? A I told him that I did not know of any trouble.

Q Why did you say that? A Because I did not care to implicate myself in it, for fear of ruining my business and my good name.

Q The fact that you had witnessed an atrocious robbery would not necessarily implicate you, would it? A Possibly not, no, sir.

Q And yet you preferred to tell him a lie? A No, sir-- well, I did not want to get mixed up in it.

Q Did you tell him the truth? A No, sir.

Q Did you tell him a lie? A It was evidently a lie yes, sir.

Q What else did he ask you? A Nothing further.

Q Then where did you go? A I went home to my breakfast.

Q How long did you stay at your home? A Probably three quarters of an hour.

Q Did you see anyone there? A I did not.

Q Did you tell anyone what had happened? A Only my wife.

Q You told her? A The night before.

Q Did you tell her all about it? A No, sir, I did not.

19

k 9

Q What did you tell her? A That I had seen Mr. DeCamp assault Mr. Carroll.

Q Didn't tell Walter Shannon? A I did not, sir.

Q Where did he see you? A James Shannon, I left him in the pool room.

Q Do you know where he went? A I don't know.

Q Now, subsequently did you have a little talk with Captain Kear in the station house? A I did, sir, yes, sir.

Q You sent word to him that you would like to speak to him? A Yes, sir.

Q Did you tell Captain Kear in the station house that it was De Camp that put up the job? A Yes, sir, I did.

Q You used those words? A I said that De Camp assaulted the man and presumably intended to do so. I did not say that he had put up any job.

Q I want to know whether you deny that you said that De Camp had put up the job to rob him? A I used no such expression.

Q You did not? A No, sir.

Q What did you tell Captain Kear? A I told him I seen De Camp assault Mr. Carroll.

Q Anything else? A And also told him that I had seen Clabby in his company at the same time. I explained to him in the same way and in the same language as I have explained here to-day, the part that I took in it, and he

92611

CASE 77361

k 10

refused to listen to my testimony.

Q Did he hear it? A Did he hear it? Do you hear me speak now?

Q Answer my question? A Certainly he heard it.

Q You told him how you had received the ring? A I told him the same thing, yes, sir.

Q And how you had concealed the diamond? A I did not, sir.

Q What did you tell him about receiving the ring? A Nothing whatever. I told him that De Camp had put the ring in my pocket, that was all.

Q You told Captain Kear that? A Yes, sir.

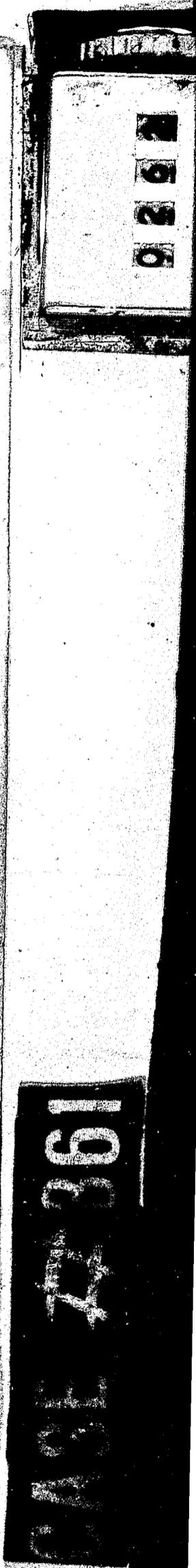
Q Did you tell him that you had given it back to De Camp? A Yes, sir.

Q Can you deny that you said that De Camp had put up the job? A I deny that, certainly.

Q Did you, apart from the concealment of the diamond, state to Captain Kear, all the facts connected with this matter? A Yes, sir, I did.

Q Did you have any talks whatever with Coleman or Cleary or Douglas? A I talked to Jack Cleary; not to Mr. Douglas or to Mr. Coleman.

Q You had no conversation whatever with them? A None whatever.



k-11

65

Q And do you know of any object or any reason why they should come here and misstate what you had told them?
A I can't explain the actions of the police force.

Q What did you tell Cleary? A Jack Cleary came to me and said there was a diamond missing out of Mr. Carroll's ring; and he said, "Do you know anything about it?" I said, "Yes, sir"; he says, "If you will tell me where I can find it, it will help you out in this case; otherwise it will go against you."

I told him I had no desire or inclination to conceal the diamond or to keep it; that I had had no opportunity of giving it up.

Q How long had you been in confinement when you told this to Cleary? A I was arrested on Wednesday about one o'clock, and told it to him on Thursday evening about six o'clock.

Q Now, when you were making this statement to Captain Kear, why did you conceal the fact that you had the diamond under your carpet, if you were telling him everything, why didn't you tell him that too? A Why didn't I tell him?

Q Yes. A I really can't say, sir.

Q You can't explain that? A No, sir.

Q Now, did any little incident pass about an exchange of overcoats before Mr. Carroll left your pool parlor, or immediately after? A Not overcoats, but undercoats.

CASE # 361

Q Undercoats? A Yes.

Q Now, what was that? A When I looked for my coat, I couldn't find it. Instead, I found Mr. DeCamp's coat, which I put on and discovered it was too large; it was not my coat; and then, looking for mine, I found it on the person of Robert DeCamp.

I made him take it off, and return it to me.

Q When was this? A Before he went out of the poolroom.

Q And before Carroll went out of the poolroom? A Yes, sir.

Q After that exchange, DeCamp and Carroll left together? A Yes, sir.

Q Now, you could have told about this diamond at any time, could you not have? A Yes, sir.

Q And you waited until you had this talk with Cleary before you said anything about it? A Yes.

Q And you are unable to give any explanation as to why you retained that information up to the time that you saw Cleary? A Captain Kear distinctly stated to me in the station house that he did not care to hear anything about the case at all; that it was too late; that he had already given me the opportunity of making my statement.

Q Referring to what; the poolroom meeting? A Apparently; yes, sir.

9 3 6 1
CASE 77 361

Q Now, if DeCamp was so drunk that he couldn't play pool, and Mr. Carroll was not so drunk as DeCamp, why didn't you go and endeavor to help Carroll when you saw him assaulted? A Because Mr. DeCamp had a loaded pistol apparently on his person, and that club (indicating), and I didn't care to interfere in anything he was doing.

Q Why do you say that DeCamp had a loaded pistol? A I supposed he did. I saw him shooting in the street.

Q Didn't you say that Clabby took it away from him? A He did; yes, sir.

Q Then why did you think he had it back? A Because Mr. Carroll testified that he saw the pistol in the pool-room, and tried to take it away from him, did he not? And I supposed he had it then.

Q You never heard Carroll testify before yesterday, did you? A No, sir.

Q I ask you, on the evening in question, when you saw DeCamp assault Carroll, why you thought DeCamp had a loaded pistol? A I thought he had; yes, sir.

Q Why? A I had seen it in his possession before; he also had a long knife in his possession.

Q But you say Clabby took the pistol away from him? A I say Clabby took it away from him on 80th Street.

Q Did you still think that DeCamp had it after you saw Clabby take it away from him? A I didn't know.

936
CASE # 361

Q But you say you thought he had? A Yes.

Q If you saw Clabby take it away from him, why did you think he had it back? A I thought Clabby gave it back to him.

Q Why? A Because it was DeCamp's property.

Q You had not seen Clabby give it back to him?

A No, sir.

Q When you saw Clabby running, had you any reason to suppose that Clabby was going to do anything except to assist Mr. Carroll? A I didn't know, or think anything about it.

Q Then, so far as you knew, one of your party was going to assist Mr. Carroll? A I didn't know what he was going to do.

Q So far as you knew to the contrary, Clabby might have been going to help him? A I didn't know whether he was or not.

Q No, you did not know that Clabby was going to assist DeCamp in assaulting Carroll? A I couldn't say, sir.

Q Clabby was a young gentleman that you had had to your house at a party; you didn't suppose he was going to aid a robbery, did you? A I wouldn't call him a gentleman under any circumstances.

Q The question is whether you had any reason to suppose that Clabby was going to assist DeCamp when DeCamp was striking Carroll? A I couldn't explain his actions.

0 2 9 1
CASE 361

kk-2
69

Q Did you think he was going to assist DeCamp? A I didn't know what he was going to do? *

Q Or did you think he was going to assist Carroll?
A I didn't know whether he was going to help Carroll or assault him; I couldn't tell.

Q Didn't it occur to you that it would be a kind and decent act to run over there and try to persuade DeCamp to desist from his conduct? A I suppose if I had been able to distinguish and stop and think, I would have done so, yes.

Q But you did not stop and think? A I did not, sir. My desire was to get away as soon as I possibly could.

Q Didn't you tell Captain Kear that you went right home after leaving the poolroom? A When I went out into the station house?

Q Didn't you ever tell Captain Kear that you went right home after leaving the poolroom? A I believe I did, yes, sir.

Q Was that true? A It was not.

Q How long did you continue in this state of agitation and fear; for how many days? A Ever since I have been arrested.

Q And you are still suffering? A I am; yes, sir.

Q From the fear inspired by this assault? A Yes, sir.

Q Did you hear DeCamp tell Carroll that he was a sergeant of police? A I did not.

9 2 6 2

19 3 6 1

Q Did you ever hear DeCamp make that statement? A Never, sir.

Q You did not know at the time, or have any idea that Mr. Carroll supposed he was an ununiformed member of the police force? A I didn't have any idea of it at all, sir.

Q When Mr. DeCamp ceased playing pool, is it not a fact that you joined him? A No, sir.

Q And talked to him in the poolroom? A No, sir.

Q Didn't you then suggest to DeCamp that you should induce Carroll to go out onto the street and there take his jewelry? A I did no such a thing.

Q Didn't DeCamp at first suggest that Carroll was too sober? A No, sir; he did nothing of the kind.

Q Didn't you then urge DeCamp to do so? A No, sir; I did not.

Q Didn't you tell DeCamp to get the end of a billiard cue, which was lying beneath the cigar and cigarette counter? A I did not, sir.

Q Didn't you state that you had used a billiard cue for a similar purpose before, and that one blow on the head from it would stun any man, but would not cut the scalp and could not possibly injure anyone except temporarily? A I never made any such a statement in my life.

Q Didn't you then, before you left the poolroom, agree to divide any of the proceeds -- A No, sir.

929

19

Q -- of this attack? A No, sir.

Q Didn't you ask Oscar Walker, your colored man, to put the cue in DeCamp's pocket? A I did not.

Q Didn't you hear Oscar Walker tell DeCamp that he had put the billiard cue in DeCamp's pocket? A No, sir.

Q Didn't you, after being joined by DeCamp and Clabby, hand to DeCamp the gold ring in question? A No, sir.

Q Didn't you unset the middle stone in that ring in their presence? A No, sir.

Q Didn't you say that you wanted that stone for your wife? A No, sir; I did not. My wife has two or threediamonds, worth over \$100 right now.

Q Didn't you tell DeCamp that he could keep the rest of the ring? A I did not, sir.

Q Didn't you then state that you expected an equal division of the proceeds of the rest of the jewelry?
A No, sir.

Q Didn't you, after Magistrate Mayo had increased your bail in this case, tell DeCamp that you should testify, and wanted him to testify with you in such a manner that you should be turned out and Clabby convicted? A No, sir; I didnot.

Q Didn't you state that you were willing to spend as much as \$500 to fix Carroll in this case? A No, sir; I did not make no such a statement.

kk-5

72

Q Didn't you tell DeCamp that, inasmuch as most of the evidence was against him, that he could plead guilty and go to Elmira and get out in thirteen months? A No, sir.

Q And that, if he would do that and swear that you took no part in the assault, and attribute the part that you took to Clabby, that you would have paid to any person he would bring the sum of \$500? A No, sir.

Q Didn't you state that, if you couldn't get this money from your father, you could get it from Miss Lee, the daughter of a wealthy merchant whom you knew intimately, from whom you had borrowed money before, and who had given you presents of jewelry, and whom you were in the habit of meeting in the afternoon at the Waldorf-Astoria Hotel? A No, sir; I made no such statement.

MR. FITZGERALD: If your Honor please, if the complaint is not already a part of the record, I desire to offer it in evidence.

MR. TRAIN: What part would you like?

MR. FITZGERALD: The part showing the signature of the complainant.

MR. TRAIN: No objection.

THE COURT: The whole of it, or only the signature?

MR. TRAIN: I have no objection to the complaint and affidavit.

9 2 2 0

19

THE COURT: The whole affidavit of Mr. Carroll, forming the complaint in this action, may be received. Marked "Defendant's Exhibit A".

RE-DIRECT EXAMINATION BY MR. FITZGERALD:

Q You said that, when you ran, you went from 79th Street to 81st Street. Will you describe the route which you took? A I ran up the east side of Columbus Avenue to 80th Street, cut across the corner of the park going east, and came out on 81st Street about a quarter of ^{the} a block towards Eighth Avenue.

Q Did you cross 81st Street to the north side? A To the north side; yes, sir.

Q The next morning when you went down to meet Captain Kear, did you wear the same clothes that you wore the night before? A Yes, sir; exactly.

Q That cue-end which has been spoken of here, was that in your pool-room? A I couldn't swear to it being there, sir.

BY THE COURT:

Q You do have cue-ends there, do you not? A Not as a rule, Judge; no, sir. They have no business to be in a poolroom.

BY MR. FITZGERALD:

Q I want to ask you if you were ever charged with any crime before? A Never in my life.

9271

19

1

HANNAH CLAIRE HUNSAKER, called as
a witness on behalf of the defense, being duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. FITZGERALD:

Q Mrs. Hunsaker, will you lift your veil?

(The witness complies).

Q Where do you reside? A 76 West 89th street.

Q You are the wife of Mr. Hunsaker, the defendant here?

A Yes, sir.

Q You reside at his home? A Yes, sir.

Q And do you recall the 3rd and 4th days of March of
this year? A Yes, sir.

Q Do you remember Mr. Hunsaker going to his place of
business on the evening of the 3rd of March, this year?

A Yes, sir.

Q Can you say whether or not he had in his possession
at that time any jewelry?

MR. TRAIN: Objected to.

THE COURT: she may answer.

A Yes, sir.

BY MR. FITZGERALD:

Q Will you describe what it was? A He had a ring,
a snake head, I think, with a diamond here (indicating) in it
and a gold watch, and a cigar cutter with his initials on,

9272

191

and a fob with his initials on; and I am not positive, but I think he had a large diamond ring besides, but I couldn't swear positively to the one diamond ring.

Q Do you know Francis Clabby, who testified in this case? A I know him very slightly.

Q Have you ever had any conversation with him? A I have had one conversation in the 54th street police station.

Q Concerning this case? A Yes, sir.

Q State what it was? A I went down to see my husband in the morning, and Mr. Clabby was there, and I asked him what part Mr. Hunsaker had in this robbing and beating of a man; and he assured me that he had no part whatever. I had one more conversation with him outside yesterday morning.

Q You may state that? A He told me that, if Mr. Hunsaker had stuck to him in this affair, he would not be where he is today; and he asked me if I blamed him for saving himself.

CROSS EXAMINATION BY MR. TRAIN:

Q Where was this, Mrs. Hunsaker, that you had your talk first? A Down in the 54th street Police station.

Q Whereabouts in the police station? A Right by the cell door.

Q Did you see him in the cell? A No, he was out of the cell at that time.

9 2 7 1

1967-7-361

3 Q Who was there? A My husband and him and I.

Q You three only? A We three only.

Q There was no one else there? A Jimmie was there, but he was standing over by the window.

Q Was he within hearing? A Well, we spoke very low; I don't know; I couldn't swear whether he heard or not.

Q Well, Mr. Hunsaker and your husband, took part in this conversation then? A No; he had nothing at all to say. I asked him myself.

Q Now, Mr. Hunsaker was standing there? A Mr. Hunsaker was standing by the cell door. I was sitting on a chair and Clabby was standing beside me.

Q Had you spoken to your husband that morning? A I said good morning.

Q Had you spoken to him before that morning? A Before that morning?

Q Yes. A I had not seen him before.

Q Had you supposed that anything had happened? A Had I supposed that anything had happened?

Q Yes. A Only just what I heard.

Q What did you hear, Madam? A Well, I got the paper, that is about all I could hear, was from the papers.

Q You read something in the paper? A I read something in the paper, I think a night or two after that.

Q When did you first know that your husband was arrest-

CASE 361

4

ed? A Let me think. A detective came up to the house and told me that he was arrested, I think on Wednesday, in the afternoon.

Q That was the first time you knew that your husband had been arrested? A Yes, sir.

Q You had not seen your husband that day? A I saw him in the morning.

Q At breakfast? A Yes, at breakfast.

Q You didn't know that he was in danger of arrest then?

A Oh, no.

Q And you didn't see him again until the afternoon?

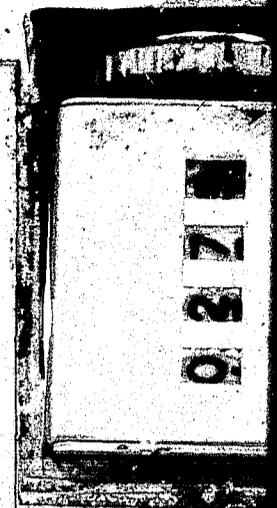
A I didn't see him again until I saw him in the 54th street police station house.

Q When did you first learn that Mr. Carroll had been assaulted by anybody? A I read it in the paper on the--- let me see now; when did I read it? I think it was the night after my husband was arrested.

Q And you saw your husband the next day after that; is that correct?

(No answer).

Q I am not trying to confuse you. I am trying to get the order of the events. Your husband breakfasted with you on the morning of the 5th of March and then was absent the rest of the day; is that correct? A I have not seen him since breakfast time until I saw him in the 54th street



5

police station house.

Q And that was the next day? A No; that was-- I may say it might have been a week after.

Q So, from the moment that you had breakfast with him, you did not see him for a long time? A Not for that stated time.

Q And you first learned that he had been arrested from something the detective told you on the afternoon of the day on which he did take breakfast with you? A Yes, sir.

Q Now when was it that you learned that Mr. Carroll had been assaulted; did the detective tell you? A I have to think a minute.

Q Yes. A I can't be positive whether he told me the man's name. He told me that it was a stranger that nobody knew, but I couldn't swear that he told me his name was Carroll.

Q That is what the detective told you? A Yes, sir.

Q In the afternoon? A In the afternoon.

Q At that time did you know that De Camp was mixed up in this? A Yes, because I read off De Camp and Hunsaker and Shannon in the paper.

Q And that was the day after the detective came to your house-- or was it the same evening? A I couldn't remember positively whether it was the same evening or the day after.

9 2 5 6
CASE # 361

6

Q But up to the time that you read it in the paper, you did not know that Mr. De Camp had assaulted Mr. Carroll; Mr. Hunsaker never told you that he was with De Camp and Carroll and saw De Camp assault Carroll?

A I couldn't remember positively; I couldn't swear.

Q I mean before you saw it in the paper?

A In the morning when he was called up, he told me then that a man had been-- he told me then-- I have got to think. What did he tell me that morning? He told me that something happened around 79th street.

Q He told you that when he was called up on the telephone?

A When he was called up--- no, it was not when he was called up. A boy came up and rang the bell and said somebody wanted him---

Q When, you say that, when was it that the boy came?

A That was in the morning.

Q Before breakfast?

A Before breakfast.

Q Did this message brought by the boy result in Mr. Hunsaker's going out?

A He got right up and went down.

9277

191

7

Q Because a boy came to the door?

A A boy came and said he was wated down in the pool room.

Q Do you say that your husband told you then that there had been trouble?

A I asked him then what was the matter, because it was an unusual thing for anybody to come so early in the morning and wake him up, because he never got up till ten or eleven o'clock, and this was, I should think, between seven and eight.

Q What did he say?

A I wondered what it was and I asked him and he said something had happened down at 79th street.

Q Did he say when it had happened?

A No, he didn't say when it had happened.

Q Did he say his presence in the pool room was required on account of this thing that happened? A I couldn't say that.

Q When you asked him about this unusual message delivered at this unusual hour, it was then that he stated that there had been some trouble? A That there had been some trouble.

Q That was the first that you had heard of it? A That is the first I heard of it.

Q The very first you heard of it; you had not the remotest idea that anything had happened that your husband had either

Q 27 R

1937-361

8

seen or taken in part in until that boy came to the front door? A Let me think. I couldn't remember positively.

Q If that was not the first time when was the first time you knew anything had happened? A Well, it was a usual thing to hear of things happening there every day, but of course there were so many little things, I couldn't swear that I had any conversation until that time.

Q Do you know what time your husband came in the night before? A It was late.

Q Do you remember when he came in? A Oh, it was after one o'clock, maybe after two o'clock. I know it was later than usual.

Q Do you remember that he came in? A I remember that he came in.

Q Did he tell you then anything about any trouble?
A I couldn't remember positively.

Q Well the first time you knew any of the details at all of this affair was when you read it in the papers? A That was when I knew anything of the details. I was in a very delicate condition and my husband I suppose did not want to tell me until I read it in the paper.

Q About this little talk in the station house, you say your husband was there and Clabby and yourself and James Shannon was some distance away? A Yes, sir.

198-361

9

Q And was your husband and Clabby talking when you came in? A Oh, no; they were locked up in their cells.

Q Separate cells? A Separate cells.

Q How did they come to be out and up in each other's company? A The keeper I think opened the door and Mr. Hunsaker came out to me for five minutes and Clabby came out.

Q Was Clabby let out at the same time? A Yes-- not exactly the same time, no; not at the minute.

Q So you saw your husband first? A I just saw him for a minute and asked him how he felt.

Q Did you ask him about this alleged robbery in which he was charged with being an accomplice; did you say anything to him about the charge against him? A I have got to think. I can't be positive.

Q Well, you are very positive that Clabby told you that your husband had nothing to do with it? A Because that was what I wanted to find out, why he was arrested.

Q What words did Clabby use? A He said "He had nothing whatever to do with it", or "nothing at all". I couldn't be positive which.

Q That your husband had nothing at all to do with it? A Nothing to do with it.

Q Was that all he said? A I think so.

Q Didn't he say who had to do with it? A Yes. He told me who had to do with it.

Q Who did he say? A He said De Camp.

Q He said De Camp did it? A Yes.

Q Did he say anyone else; did he tell you any of the details? A No.

Q Now, about yesterday-- was it yesterday that you had this other talk with Mr. Clabby? A Yes, yesterday morning.

Q And where was it? A Right outside of the elevator.

Q Was any one present? A No.

Q Did he speak to you or did you speak to him? A He looked at me and I bowed good morning.

Q Who spoke first? A I said "Good morning", and he said "Good morning".

Q Then what was the first thing that was said?

A He said he was very sorry-- he said "Mrs. Hunsaker, I am very sorry for you". That is the first thing he said.

Q He came over to you? A No; he was standing over by the elevator and I went over, and I bowed to him.

Q Did you go over? A Well, I didn't go over-- I was right around there. We were all walking around.

Q But you say there was no one there but you and Clabby? A Nobody present.

Q And did you speak first? A I said, "Good morning"

Q Then what did he say? A He said -- he started by saying he was very sorry for me, and would have come to see me, but that he thought that I would not want to see him; something to that effect; I can't be positive.

Q What did you say? A I said "Not at all".

Q Then what did you say? A Then he said, "If Mr. Hunsaker had stuck to him that he wouldn't be where he was to-day."

Q Do you know what he meant by that? A And he asked me if I blamed him -- he says, "You can't blame me for trying to save myself".

Q Did you know what he meant by your husband sticking to him? A I can't say that I did.

Q What did you say then? A I remarked that "I felt so bad about the affair, owing to my having a baby not three weeks old."

Q Well, what else did you say? A That is all I said.

Q And did he say anything else? A Said he felt sorry.

Q And that was all that was said? A That was all.

J A M E S S H A N N O N , called as a witness on behalf of the defence, being duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. FITZGERALD:

Q Speak up loudly now, so that we all can hear you.
Where do you live? A 76 West 89th Street.

1987-361
CASE 7-361

Q Do you know Mr. Hunsaker? A Yes, sir.

Q He is your step-father? A Yes, sir.

Q And his wife is your mother, is she? A Yes, sir.

Q Do you know Francis Clabby? A Yes, sir.

Q Do you know Robert DeCamp? A Yes, sir.

Q Do you recall seeing Francis Clabby and Robert DeCamp at any time on the 4th of March of this year, or don't you recall the date? A What day was that?

Q Well, do you remember going to DeCamp's house at any time? A I do.

Q In the month of March? A Yes, sir.

Q Will you state -- did you have a conversation with DeCamp and Clabby at that time? A Not at the time I went for him.

Q Did you go for him? A I went upstairs.

Q How did you happen to go upstairs? A I met Mr. Coleman and he asked me to go up and ~~ask~~ tell him he would like to speak to him.

Q To go up and tell DeCamp? A Yes, sir.

Q And you went up? A Yes, sir.

Q Did you go in? A Yes; he let me in.

Q Who let you in? A DeCamp.

Q DeCamp himself? A Yes, sir.

Q Well, when you got in there, what did you do then?

A I just told him that Mr. Coleman wanted to see him.

Q And what did he say to you?

MR. TRAIN: Objected to. I do not see ow this is material.

THE COURT: I will have to sustain that objection at this time.

MR. FITZGERALD: If your Honor please --

THE COURT: What does it contradict?

MR. FITZGERALD: It explains the giving of the jewelry to James Shannon, who is now on the stand.

MR. TRAIN: He is not on trial.

MR. FITZGERALD: There has been an effort made to show that --

THE COURT: Who gave it?

MR. FITZGERALD: DeCamp and Clabby.

THE COURT: But they are not on trial.

MR. FITZGERALD: If your Honor please --

THE COURT: It would be competent, if they were, but they are not on trial; hence I do not see its competency here.

MR. FITZGERALD: It was shown on the prosecution in this case that the step-son of the defendant acted as a go-between, between the defendant and DeCamp. Can't I contradict that?

THE COURT: That is what I was asking a moment ago, what you were trying to contradict.

1936
CASE 77361

MR. FITZGERALD: That is the purpose of this examination.

THE COURT: Well, Mr. Train, that having been developed --

MR. TRAIN: Well, the objection is to what DeCamp said. The foundation was, of course, laid for what Clabby may have said on that occasion, but there can't be any contradiction of DeCamp, because DeCamp has never testified.

MR. FITZGERALD: I will change the question, if your Honor will permit.

THE COURT: I will permit it except as to a conversation with DeCamp.

BY MR. FITZGERALD:

Q I will ask you what was done there. A He just took me around, and he called me aside, and asked me to take the jewelry he had in his hand.

MR. TRAIN: There you are, if your Honor please!

THE COURT: Strike out what DeCamp said.

BY MR. FITZGERALD:

Q Did you have any conversations with Clabby? A No, not a bit.

Q Did you see Clabby at that time? A Yes, sir.

Q What was he doing? A Laughing was all I could see

1963-361

him doing.

Q Was he having a conversation with DeCamp? A No.

Q Have you since seen Clabby to talk to? A Yes.

Q Did he say anything about Mr. Hunsaker? A He told me that he came down here and in a statement said that I took the stuff to save Mr. Hunsaker, and he wanted to know would I agree to that story?

Q When did he state that to you? A In Mr. Sheehan's poolroom, 78th Street and Broadway.

Q You were locked up in the Tombs, were you not?
A Yes, sir.

Q With Clabby and DeCamp? A Well, Clabby was not down in the Tombs.

Q Clabby was not down at the Tombs? A No, sir.

Q He was out on bail? A On bail.

Q Well, you were with him in the 54th Street police station? A Yes, sir.

Q Do you know whether or not there was any communication between DeCamp and Clabby while DeCamp was in the Tombs with you? A Oh, numerous letters that DeCamp sent out to him.

MR. TRAIN: Now, if your Honor please, I object to this.

MR. FITZGERALD: I am going to call for those letters.

19

THE COURT: Well, have the letters if you can.
Go right on now.

MR. FITZGERALD: There were numerous letters.

Q Anything else?

MR. TRAIN: Now I object to this. I do not see how it is relevant or material. This person was confined in the Tombs and he pretends to state that two or three people --

THE COURT: No, it is of no importance, the fact that letters passed, unless it can be shown what was in the letters. This will be preliminary, and unless it is connected I will strike it out. Objection overruled.

BY MR. FITZGERALD:

Q Did anything else pass between Clabby and DeCamp in the Tombs?

MR. TRAIN: Objected to as immaterial.

BY THE COURT:

Q Do you know; if you do, you may say what you know.

A Only that Mr. Clabby came to me and told me that DeCamp offered him some money to stick with him in this case against Mr. Hunsaker.

1907
CASE 77 361

CROSS EXAMINATION BY MR. TARIN:

Q You have given us numerous conversations with Clabby. Where was the first talk that you had with Clabby? A After the arrest?

Q At any time in regard to this place? A The first ~~talk~~ talk I had with him was in the 54th Street Police Court.

Q Who was present? A Oh, we were out among a lot of other prisoners, walking around the corridors.

Q What were you there for? A Why, I was arrested in this thing myself.

Q What for? A Well, I believe the charge was receiving stolen goods or something like that.

Q Don't you know it was stolen goods? A No, sir.

Q Why don't you know? A Well, Mr. De Camp did not tell me.

Q What has that got to do with it? You were arrested and arraigned in the police court, were you not? A I believe so.

Q Can't you tell what you were charged with? A Receiving stolen goods.

Q What stolen goods? A Well, it was stolen goods they claimed.

Q Didn't you see the goods? A When they were given to me I saw the goods, yes.

Q Didn't you see the goods in the police court? A No, never saw them in the police court.

Q Didn't you know what goods you were charged with receiving? A Yes, sir, I knew.

Q Whose goods were you charged with receiving?
A The goods that De Camp gave me.

Q And that is why you were locked up? A That is the only thing I can see.

Q Now, where you were locked up you say you had a talk with Clabby? A Yes, sir, I had.

Q Aren't you sure of it? A Yes, I am certain.

Q Where was it? A In the police court.

Q Whereabouts? A Walking around the corridors.

Q Do you remember when? A No, I don't just remember when.

Q Have you any idea when it was? A No.

Q Were there any other people present? A Well, there were a lot of people around us.

Q Prisoners? A Yes, sir.

Q Now, what was it Clabby said to you? A Clabby-- the first thing Mr. De Camp came down there he came over to me--

Q Are you talking about Clabby or De Camp? A I am talking about Clabby, but I am relating this.

Q Then answer about Clabby? A He told me that Mr.

CASE # 361

De Camp offered him some money to stick in the case for him against Mr. Hunsaker.

Q Did you say anything? A I didn't say anything to that.

Q Was anything said about your part in the case?

A No, sir.

Q Do you know any reason why Clabby should abruptly have made this statement to you, that he was being paid to testify against your stepfather? A No, I do not.

Q Had you talked with him about the case? A Mr. Clabby?

Q Yes. A Well, once in a while I may have spoken to him about the case.

Q When he made this remark had you been talking about it? A No. He had been talking to Mr. De Camp and came right over and told me that.

Q He was talking with Mr. De Camp and came right over and said that Mr. De Camp had offered him money to stick to him in the matter against Mr. Hunsaker? A He was talking on the other side in the corridor; and when he had finished he came over and told me.

Q Yes; he came over and told you that? A Yes, sir.

Q Have you any idea why Clabby should want to tell you a thing like that? A No, I have not.

Q He didn't offer you any money, did he? A No, sir.

CASE # 361

Q Do you know of any object he could have had in making this disclosure to you? A No, I do not.

Q Now, at another time in the police court did you say see Clabby? A Yes, I saw him every--

Q Except in the corridor? A Yes, I see him-- been in the same cell with him.

Q You were in the cell with him? A Yes.

Q Now, at any time did you hear Clabby make any other statement about the case as to who took part in it? A No; he seemed to keep---

Q Now, answer my question; did you or not? A No.

Q You did not hear him say anything as to who took part in the case, A No.

Q Did you hear him make any statement at any time as to what part Hunsaker took in the case? A Yes; he told me he had nothing to do with the case.

Q Where was it that he told you that? A In the cell.

Q When you were both locked up together? A Yes, sir.

Q Do you remember any occasion when you saw your stepfather and Clabby together? A In the cell, I believe. I think they made some few remarks in the cell together.

Q But that was the only occasion you ever saw them in each other's company? A Well, walking around the corridors they may have run into one another.

Q You don't remember any particular occasion when you

CASE # 361

5

and Hunsaker and Clabby were together, do you? A Yes, in the cell.

Q Was any other person present? A No, sir.

Q What was the next confidence that Clabby reposed in you? (No answer)

Q Perhaps I can refresh your memory; it was a pool room, I think? A Oh, yes, it was in a pool room.

Q Now, what happened in the poolroom? A He walked up to me-- this was right after I got out, the next day-- and he says, "I got you out of this thing all right. I went down and told those people down town that you took this stuff, to save Mr. Hunsaker. Now, if you ever go down there you want to stick to me and say the same thing."

Q Clabby told you that, - he got you out of the difficulty? A Yes.

Q That you took the goods, in order to save Mr. Hunsaker? A Yes.

Q Do you see how that got you out of it? A No; I thought it would do me more harm than good-- I thought.

Q Do you know how you got out of it? A I really don't know. They discharged me and told me I was freed by the Grand Jury.

Q You did receive those articles on the morning of the 4th of March? A If it was that morning.

THE COURT: The jewelry in question.

198
CASE # 361

BY MR. TRAIN:

Q The jewelry in this case? A Yes.

Q Where do you live, Mr. Shannon? A 76 West 89th Street.

Q Live with Mr. Hunsaker? A Yes, sir.

Q Where do you live? A Postal Telegraph Company, 20 Broad Street.

Q Where were you working at that time? A I was not working, only in the pool room.

Q I thought you said you were working for the Postal Telegraph Company. A You asked me where I am working.

Q Oh, you are working now for the Postal Telegraph Company? A Yes.

Q Then you worked for the defendant? A Yes, sir.

Q What time did you go to work? A No special time, 10, 11 and 12 o'clock in the mornings.

Q Pretty near any time you felt like it? A Yes, sir.

Q When did you first hear anything about this case?

A Down in the 54th Street Court when they had me arrested.

Q How did you happen to go to De Camp's house on the morning of the 4th of March? A Mr. Coleman asked me to go up and tell him he wanted to see him.

Q Where did you see him? A 78th Street ~~and~~ and Broadway.

7

Q Where were you going? A Over to Mr. Donohue's pool room.

Q You were not going to your own? A No, sir, I was not going to my own.

Q What were you walking over to Donohue's for? A I don't know; made several little trips over ther; always do walk over that way now and then.

Q And you just happened to be there that morning?

A Yes, sir.

Q It had not occurred to you that you would like to see De Camp? A No, sir, not the least.

Q You had no idea of going to see him? A No, sir, not in the least.

Q Where did you meet Mr. Coleman; exactly at what place?

A The corner of Donohue's pool room.

Q In the poolroom? A On Broadway.

Q There you met Coleman? A Yes, sir.

Q What did he say to you? A He asked me would I go up and tell me. De Camp that he wanted to see him, and I told him that I would.

Q How far was it to De Camp's house? A Down to 58th Street and then up Amsterdam Avenue.

Q Did you know any reason why Coleman couldn't go himself? A No, sir.

Q Did you know Coleman? A Yes, I knew Mr. Coleman.

196-7-1303

Q Knew him well? A Not very well.

Q Did he ever ask you to go on any errands before?

A No, sir.

Q This was the first time. A Yes.

Q Hadn't you any idea what he wanted you to go to De
Camp's for? A No, sir.

Q You had not heard about any trouble the night before?

Q Had not seen Mr. Hunsaker that morning? A That morn-
ing, yes, sir.

Q When? A In the house about 9 o'clock.

Q Did you see him anywhere else? A No, sir.

Q What did you do in the house with Mr. Hunsaker?

A Oh, nothing.

Q When did you have your breakfast? A About a quarter
to 9.

Q Who was there? A Just the girl that gave me my dinner

Q Just the girl? A Yes.

Q Mr. Hunsaker was not at breakfast? A Not with
me.

Q You had not seen him that morning? A That morning
I saw him in the house.

Q Where did you see him; at what time? A Well, it
must have been that I saw him in one of the rooms, or in
the hallway.

Q Why do you say it must have been; do you remember

193
CASE 361

seeing him at all? A Why certainly.

Q You remember? A Yes.

Q Did he say anything to you? A No.

Q Did he tell you anything about any trouble? A No, sir.

Q Not a word. A Not a word.

Q Now, was Donohue's the first place you went that morning? A No, sir.

Q Where did you go before that? A I went to my own poolroom.

Q Who were there? A I can't just recall the boys that were there.

Q You went down to see how things were at your own poolroom? A There were some people playing pool there? A Yes, sir, and a few people standing around.

Q Where was Hunsaker; was he back at the house? A I don't know where Mr. Hunsaker was.

Q How long did you stay at the poolroom in the morning? A Ten minutes.

Q And then where did you go? A Donohue's.

Q Took a walk? A Took a walk around to 81 Street and then over to Broadway and then was going down to Donohue's.

Q So the only time you had seen Hunsaker that morning was at the house.

196
361
CASE #

10

Q And no one told you anything about any trouble?

A No, sir.

Q Then when you got over to 78th and 79th Street and Broadway Coleman, whom you knew to be a detective came up and asked you to go on this errand to De Camp's. A Yes.

Q Did he go with you? A The last was when he walked up in the vestibule.

Q Where did he say he wanted to see De Camp? A He didn't say where; just ~~told~~ told me to go up and tell De Camp that he wanted to see him.

Q Told you to go up to ~~De Camp~~ De Camp and tell him that he, Coleman, wanted to see him? A Yes, sir.

Q Didn't he name any place? A No.

Q Didn't name the place he wanted to see him? A No, sir.

Q Where did you suppose he wanted to see him? A I couldn't suppose anything.

Q You went to De Camp? A Yes.

Q You delivered your message? A Yes, sir; I told him Mr. Coleman wanted to see him.

Q Did you not in point of fact take a little message from Mr. Hunsaker to Mr. De Camp? A No, sir.

Q How long did you stay at De Camp's? A Not over a minute and a half.

Q Did you have any talk with him during the minute and

9 2 2 2

193 2 361

a half? A No; just told him that Mr. Coleman would like to see him.

Q Now, I don't ask you what it was, but did you have any talk? A Only that.

Q When you told him Mr. Coleman wanted to see him?

A Yes, sir.

Q Did he give you anything? A Asked me to mind some jewelry.

Q What did you think that he wanted you to do with it? Sit and look at it? A I don't know what he wanted me to do with it. I refused at first; I didn't care to mind any jewelry, because I didn't care to take a chance on losing it. He said it would be all right; to take it up to my house and I would see him that afternoon and would give it to him.

Q Told you to take it up in the house? A Yes, sir.

Q Had he ever asked you to mind any jewelry for him before? A No, sir.

Q Is this (indicating People's Exhibits) the jewelry he asked you to mind? A I believe it is.

Q Just look at it. (Complaining) A I believe it is.

Q He didn't ask you to do anything with it except to take it up to your house? A That is all.

Q Well, you finally yielded and took the jewelry; is

9 2 2 0

CASE # 361

that correct? A Yes, sir.

Q This all happened in a minute and a half? A Yes, sir.

Q And then what did you do? A I walked downstairs and Mr. Coleman was still waiting there.

Q Yes. A Down on the street.

Q Had Coleman come with you to De Camp's? A No farther than the vestibule of his house.

Q Did you tell Mr. Coleman you had this jewelry. A No, sir.

Q What did you do with the jewelry? A Put it in my pocket.

Q And then what? A Brought it up to my house.

Q And then what? A When I got up there, I have got some small brothers home and I couldn't leave the jewelry around where they could handle it and so wrapped it up and put it away.

Q Where did you put it? A On the roof.

Q The roof? A Yes.

Q Did you think that was a good way to comply with Mr. Camp's request to mind it? A Well, that was the best I could do with it in my estimation.

Q Whereabouts on the roof did you put it? A Up alongside of a chimney.

Q Was that a safe place? A Yes.

Q A place where people would not be likely to stumble

CASE # 361

3

over it? A Yes, sir.

Q How long did it stay up on the chimney? A I don't know.

Q Do you keep cats in your house? A Cats?

Q Yes-- Never mind. What did you do then after you had minded the jewelry by putting it up next to the chimney? What then? A I came down and walked around the avenue.

Q Then ~~was~~ what? A Then I heard Mr. Hunsaker was arraested.

Q Oh, you heard that? A Yes, sir.

Q Did you know what for? A No, sir.

Q What did you do? A I went down to the court to see what he was arrested for.

Q Yes; did you find out? A I was arrested.

Q Then what did you do? A Told the police that Mr. De Camp gave me the jewelry that they were looking for.

Q You told the police that? A They asked me at first, and ~~xx~~ I told them.

Q Whom? A Well, I don't know what policeman they were. They were all around me and the lawyer also.

Q You made a general statement that Mr. De Camp had given you the jewelry? A Yes, sir.

Q Is that right? A Yes, sir.

0304
CASE # 361

Q And did you tell them where you had put it?

A Yes, sir.

Q Did you tell them that you had put it up on the chimney pot? A Yes, sir.

Q Dd you tell them in what you had put it? A I don't believe I did tell them that. I told them where I had put it.

Q You told them where you had put it? A Yes.

Q Were you locked up? A Yes, sir.

Q How did the jewelry get down from the chimney?

A Well, I told them where it was and I suppose they went and got it.

Q You suppose they went and got it? A Yes, I was arrested, and I don't know how they went and got it.

Q You never saw it again until this morning? A No, sir.

Q You don't know where it came from? A No, sir.

Q Did you tell anybody that you had this jewelry before you were arrested? A Before I was arrested? ~~XXXX~~

Q Yes. A No, sir, not a soul.

Q You did not see your brother Walter anywhere around?

A No, sir.

Q Never told him where it was? A No, sir.

Q Never told Hunsaker where it was? A No, sir.

198 47 3803
CASE 77 361

Q Didn't say anything to Hunsaker? A Yes.

Q When you came up with the jewelry Hunsaker was not there

A Where?

Q In your house. A No, he was not in my house.

Q Sure? A Yes, sir.

Q How do you know? A The doors are always open in the rooms of my house and the hallway runs right down. If he was in there I could see him.

Q How did you get upon the roof and on the chimney?

A I did not get up on the chimney. I laid alongside of the chimney, which was in my reach.

Q Did you not go up on the roof? A Yes.

Q How did you get up there? A Up the stairs.

Q In getting up there on the stairs did you have to go through your apartments and thus see if Mr. Hunsaker was in there? A No, I did not have to go in there, but as a matter of form I always do going in my own house.

Q Did you walk around? A Yes, sir.

Q Did you find out whether Hunsaker was not in there?

A I didn't see him there.

Q In point of fact wasn't he there and didn't you tell him you had the jewelry all right? A No, sir.

Q When you went over to De Camp's, when you had that minute and a half's conversation that you talk about did you not say that Hunsaker had sent word by you to De Camp that the

193 # 361
CASE # 361

16

police were after him? A No, sir.

Q And that the police had been at Hunsaker's house, and that the defendant had told them, that he, the defendant knew nothing about it? A No; nothing of the kind.

Q And you did not tell him that Hunsaker wanted both Clabby and De Camp to hang by the same story? A No, sir, nothing of the kind.

RE DIRECT EXAMINATION BY MR. FITZGERALD:

Q Who was the officer who asked you to go up to De Camp's house? A Coleman.

Q Did you know that he was a police officer? A Yes, sir.

Q How long had you known Coleman? A Well, I just could not say. Right shortly after he was appointed a detective of police.

Q Tell us when that was? A Probably three or four weeks before, I guess.

Q Now, you live at 76 West 89th Street? A Yes, sir.

Q That is a flat house? A Yes.

Q And which floor do you live on? A The top.

Q And how is the roof reached on that floor? A Another flight of stairs.

Q Where was the flight of stairs with reference to your flat? A The door opens right from the stairs.

198
361

17

Q The front door? A There is only one door opening from the stairs into our flat.

Q Suppose you were in your flat and wished to go on the roof; how would you do it? A Come out of my flat to go on the stairs up.

Q When you go out the main entrance of your flat? A There is only one entrance to go out of my flat.

Q You would go out the entrance of your flat? A Yes, sir.

Q And where were the stairs to the roof? A Right alongside of the door.

Q And they are a continuation of the regular stairs of the flat? A Yes, sir.

Q Now, you were asked about some objects of art. Do you remember when you received these objects of art from Mr. De Camp, whether there was a ring among the objects or not? A No; he held it out to me that way (indicating).

Q Will you look at the pieces of art or jewelry that you see on the table and tell us how many of them you recognize; are they or are they not the same pieces? A Well, I could not say, because when he held the stuff out to me, all I recognized was a face of a watch, and I took it in my hand that way (indicating) and put it in my pocket, and when I took

1937
7361

18

it out I took it out without looking at it and put it in a cloth and wrapped it up like that (indicating).

Q What did De Camp say to you when he asked you to do that

A He asked me would I please mind it? A I told him no that I didn't care to take any chance on losing any of his jewelry.

Q Hadn't you often seen him with jewelry on?

MR. TRAIN: I object to that.

BY MR. FITZGERALD:

Q I want you to tell the jury how he said it.

MR. TRAIN: He has stated.

MR. FITZGERALD: You do not know; you were not there.

A He pulled it out of his pocket and said, "Will you mind this for me?" I said, "No, I don't want to take a chance on losing your jewelry." He says, "Oh, you won't lose it; take it up to the house and give it back to me this afternoon."

Q Who was present when he said that? A Mr. Crabby.

Q Where? A Right alongside of me.

Q In which room? A In the same room.

Q Do you know what room it was? A I could recognize the room if I saw it again.

Q When you came out of that house in the morning you left Mr. Gunsaker there, did you not? A Yes, sir.

1961

19

Q Did you at any time have any communication with Mr. Hunsaker concerning the jewelry which Mr. De Camp gave you?

A No, sir.

Q And whom did you tell where the jewelry was? A I don't know. They were all around when I told.

Q Oh, you didn't tel anybody in particular; is that what I understand? A No, I told it to them all.

Q Where did you tell it? A In the police court, 54th Street.

Q You made the statement in court? A Yes.

Q Do you know what day that was? A That afternoon.

Q You say you ^{do} ~~did~~ not know how you get out of this thing? A No. I was over in the Tombs.

Q I was over in the Tombs and they discharged me.

Q Took you out and discharged you? A Yes, sir.

Q Did you ever appear before the Grand Jury? A No, not personally.

Q What is that? A No, I don't remember-- no, I didn't appear before any Grand Jury; I don't believe I did.

Q The only court you were in was in the Magistrate's Court, in the 54th Street court? A Yes; and when they took me from the Tombs they brought me to a court down here.

Q And then they discharged you? A Yes, sir.

Q That was the time you went to court to be discharged?

CASE 361

Q And at what place did you have the conversation; at the 54th Street prison? A St the 54th Street prison.

Q Now, state what it was. A He told me that Mr. Hunsaker had nothing to do with this case.

CROSS EXAMINATION BY MR. TRAIN:

Q Do you know why it was he made you the receptacle of his confidence in this matter? A No, sir.

Q Do you know him well? A I have known him about four or five years about.

Q You have known him intimately? A Yes.

Q How did it happen that you saw Mr. Blabby? A I happened past to see Mr. Hunsaker.

Q And how did you see Clabby? A He called me.

Q Was he in a cell? A Yes, sir.

Q What did you say to him? A He asked me to see if I could get a bondsman to get him out. I told him I would do the best I could to enable him to get out.

Q Then he said this rather important thing, did he?

A Then I said to him, "You got in a whole lot of trouble, didn't you?" And he says, "I ~~ain't~~ ain't in it." I said, "How is Hunsaker?" He said, "Hunsaker ain't got nothing to do with it either."

Q I can't hear you. A I says, "You got in a lot of trouble?" He says, "No, I ain't in it." I says, "How is

198 361
CASE # 361

20

A Yes.

Q Did they tell you why they discharged you?

MR. TRAIN: I object to this as absolutely immaterial.

THE COURT: Objection sustained.

H A R R Y B A R N E S , called as a witness on behalf of the defence, being duly sworn testified as follows:

DIRECT EXAMINATION BY MR. FITZGERALD:

Q Mr. Barnes, where do you reside? A 787 Amsterdam Avenue.

Q What is your ~~business~~ business? A Horse shoer.

Q Do you know Francis Clabby? A Yes, sir.

Q Have you had any conversation with Francis Clabby relative to the charge against Mr. Hunsaker? A Well, yes, a ~~st~~ little story with it.

Q State what he said to you in reference to Hunsaker?

MR. TRAIN: I object unless they place the time or specify it.

THE COURT: Yes. Give the time and place.

CROSS EXAMINATION: BY MR. TRAIN:

Q When did you have this conversation? A When he was down in the 54th Street jail.

1962-361

Hunsaker in it?" He says, "Hunsaker ain't got nothing to do with it."

Q Did he say who had to do with it? A No.

Q And you had not gone there to see him at all?

A No, sir.

Q You went to see Hunsaker? A Yes, sir.

Q Was any other person present? A Mr. Shannon.

Q Was he in the cell or outside? A Outside.

Q Did he go with you? A Yes, sir.

Q Shannon is a stepson of the defendant, isn't he?

A Yes, sir.

Q When did this happen? A What happen?

Q This conversation? A I couldn't exactly tell you the date.

Q You don't know the date? A I couldn't exactly tell you.

Q Do you know the time? A About 12 o'clock I passed down in East 20th Street. It must have been around one o'clock when I got back.

Q What was your business did you say? A Horse shoer.

Q Whom are you working for? A My brother.

Q What is his name? A James Barnes.

Q And where does he have his shop? A 98th Street and Amsterdam Avenue.

Q Have you ever been convicted of crime? A No, sir.

198-47-361

Q Sure? A Positive.

Q Have you ever acted as a collector? A What kind of collector?

Q Of money? A For horse showing, yes.

Q And have you ever acted as a collector for your brother? A Yes.

Q Quite recently? A Quite recently?

Q Yes. A Not since before Christmas.

Q You collected money for your brother, did you not, quite recently? A Yes, sir.

Q And did you not keep some of it? A No, sir.

Q Were you not locked up on that account? A No, sir.

Q Never was in any trouble? A Yes, sir; I was brought up there, but I didn't get the money; he thought I got it, but I didn't.

Q So you got out all right? A Yes; they only brought me to the station house and let me go.

RE DIRECT EXAMINATION BY MR. FITZGERALD:

Q You were not in court arraigned on the charge?

A No, sir.

Q Did you have any other conversation with Mr. Clabby recently?

Objected to.

9519

CASE 7-361

Q (Continued) - Yesterday?

MR. TRAIN: Objected to.

THE COURT: You ought to have brought all this out first. You should exhaust your witness on the examination in chief.

MR. FITZGERALD: It just occurred to me, if your Honor please, that there was another conversation.

THE COURT: I am going let you answer the question.

MR. TRAIN: I will submit the objection on another ground, that there is no foundation for this question.

BY THE COURT:

Q You may answer the question. A Well, I met him last night and he told a young man here on the west side that I was getting bribed.

THE COURT: No, no; what did he say to you?

A I asked him about this man, after I heard it I stopped him and asked him, and he said he heard it from fifteen different people.

THE COURT: Now, you are getting away off from the case.

MR. FITZGERALD: That is not what I wanted. I understood there was another conversation.

THE COURT: Well, do not tell this witness what to say.

9311

CASE 361

BY MR. FITZGERALD:

Q. Was there any conversation since this trial began between you and Clabby concerning Hunsaker? A No, there was not.

WALTER SHANNON, called as a witness on behalf of the defendant, testified as follows:

DIRECT EXAMINATION BY MR. FITZGERALD:

Q. Where do you live, Mr. Shannon? A 76 West 89th Street.

Q. What is your business? A Telegraph operator.

Q. Where do you work? A Postal Telegraph Company.

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

Q. He is your stepfather? A Yes, sir.

Q. And Mrs. Hunsaker, his wife, is your mother? A Yes, sir.

Q. Do you know Robert De Camp? A I know of him.

Q. Don't know him? A Only that I have been introduced to him.

Q. Do you know Francis Clabby? A Yes, sir.

Q. How long do you know Clabby? A About six months.

Q. Since the 4th of March, 1903, this year, have you had any conversation with Clabby? A Yes, sir.

196
EX
361
CASE 77

Q Concerning this case against your stepfather? A Yes, sir.

Q State what it was?

MR. TRAIN: Objected to unless the time and place is specified.

THE COURT: Fix the time and place.

BY MR. FITZGERALD:

Q I asked him-- where did you have a conversation with him? A In the West Side prison, 54th Street prison.

Q When was that? A On a Friday. I don't know just exactly what ~~ex~~ day it was, it was on a Friday-- I don't remember the date.

Q State what the conversation was? A He claimed that the more they--

THE COURT: What did he say?

BY MR. FITZGERALD:

Q Just tell us what he said and what you said?

A I asked him what Mr. Hunsaker had to do with the case. He said, "Nothing at all."

CROSS EXAMINATION BY MR. TRAIN:

Q Is that all the conversation you had? A That is all.

Q Did you go to the police station for the purpose of seeing this man? A No, sir.

Q What did you go there for? A I went there to see Mr. Hunsaker and while I was there I asked him that question.

Q Where was Clabby? A Clabby was in jail, in the prison.

Q How did you get to Clabby? A He was right next door to Mr. Hunsaker.

Q In the cell? A Right next door.

Q In a cell? A Yes.

Q And did you stop there and speak to him? A I spoke to him-- I asked him.

Q How near was he to you? A Clabby?

Q Yes. A Well, not very far away.

Q How far? A About three feet.

Q In another cell? A In another cell.

Q You spoke to him? A Yes.

Q And what did you say? A I asked him what Mr. Hunsaker had to do with the case.

Q Mr. Hunsaker was right there? A Mr. Hunsaker did not hear me.

Q Were you not in Mr. Hunsaker's cell? A No; I was right within three feet of Clabby's cell at the time.

Q Wasn't Mr. Hunsaker in his cell alongside? A Yes, sir.

Q You were just as near Hunsaker as you were to Clabby?

CASE 861

A But Mr. Hunsaker was busy at something else.

Q And you turned to Clabby and said what? A I asked him what Mr. Hunsaker had to do with the case.

Q And what did you say? A "Nothing."

Q That is what he said? A "Nothing;" yes.

Q And that is all he said? A "Nothing at all." He told me how the episode occurred and how De Camp threatened them with a revolver.

Q Did he tell you what at the same time? A Yes.

Q Go on and give us the whole of the conversation.

A He told me that De Camp threatened Mr. Hunsaker with a revolver, and he told me that De Camp and Mr. Carroll came out of the poolroom first, and that he followed after with Mr. Hunsaker in about two minutes after.

Q Who was two minutes after who? A After Clabby

Q Hunsaker followed two minutes after Clabby? A Yes, sir.

Q Yes; now go on? A Well, he described the beating, and how ~~De~~ De Camp hit the man and so forth.

Q Go on with that story; I want to know what he said?

A Well, he said that De Camp hit him with the butt of a cue.

Q Yes; go on. A That is all I can remember.

Q I thought you said that Clabby described to you what

CASE 77361

happened, and the beating, and so on? A Yes.

Q Where did he say Mr. Hunsaker was? A Mr. Hunsaker was just coming up the street when the beating occurred.

Q Did he say what became of Mr. Hunsaker? A He said his life was threatened if he moved.

Q Did he say when it was threatened? A After the robbery was committed.

Q Then he hadnot been threatened while he was coming up the street? A No, sir.

Q Did he say what became of Hunsaker while DeCamp was giving this beating? A No, sir.

Q Did he say whether Hunsaker was right there beside him or not? A No.

Q He didn't say how near Hunsaker was to the beating? A I don't remember.

Q Merely said that he had nothing to do with it? A Merely he said he had nothing to do with it.

Q How long did this conversation take? A About three minutes, that is all.

J O H N P. B U T L E R , called as a witness on behalf of the defence, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. FITZGERALD:

Q Mr. Butler, where do you reside? A 112 East 122nd Street.

198 77 361
CASE # 361

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

Q Do you know the defendant, Walter Shannon? A I do.
with

Q Did he ever work ~~for~~ you? A He did, yes.

Q Do you know his reputation for honesty?

Objected to, unless the proper foundation is laid.

BY THE COURT:

Q Do you know others who know the defendant? A I know
his wife.

Q Do you know anyone else? A That is all.

BY MR. FITZGERALD:

Q He worked for you, did he? A He worked for about
threemonths.

Q What position did he occupy? A He was a clerk in
the office.

Q Took care of the money?

Objected to; objection sustained.

Q Do you know what his reputation is for honesty?

MR. TRAIN: Objected to.

THE COURT: He may answer.

A I don't know anything about his reputation for honesty
except such as I found him; I always found him honest.

THE COURT: Never mind how you found him. This is
evidence of general reputation; that the law permits;
not evidence of specific instances.

MR. FITZGERALD: I appreciate that.

1937
CASE 77361

THE COURT: Proceed.

BY MR. FITZGERALD:

Q You can't testify what the general reputation of this man is? A I cannot, no, sir.

THE COURT: That is all that he can testify to.

BY MR. FITZGERALD:

Q All you know is your own personal knowledge of it? A Of the man, and as he was at our office.

(No cross-examination.)

G E O R G E S. W E L D , M. D. , called as a witness on behalf of the defence, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. FITZGERALD:

Q Doctor, where is your place of business? A My place of business is 52 West 26th Street at the present time.

Q Do you know the defendant, Walter L. Hunsaker?

A I do.

Q Do you know any other persons that knows him? A I know his wife.

Q Do you know Mr. Kershaw?

BY THE COURT (Interposing):

Q Do you know others who know the defendant? A No, I can't recall them.

BY MR. FITZGERALD:

1987 361
CASE 77 361

T-8

303
303

Q You can't testify to his reputation only so far as you yourself know it.

MR. TRAIN: I object to that question.

THE COURT: He may answer that.

A That is all.

MR. FITZGERALD: Under the rules, if your Honor please, I do not perceive that I can ask any more questions; his impression certainly would not be evidence here.

(No cross-examination.)

MR. FITZGERALD: It just occurs to me that I desire to ~~ask~~ recall to the stand for one moment the defendant. I have a note on my desk which I overlooked entirely in connection with the numerous notes there are in this case.

THE COURT: Recall the defendant.

WALTER L. HUNSAKER, defendant, being recalled by the defence, testified as follows:

DIRECT EXAMINATION BY MR. FITZGERALD:

Q Mr. Hunsaker, you have testified to the fact that you went down to your poolrooms on the morning of the 4th of March in response to a telephone call? A yes, sir.

Q Do you desire to make any change in your testimony on that point? A Yes, sir.

1961

Q What change do you wish to make? A That a messenger came to my house --

MR. TRAIN: I object to this. It is a new rule of law that would permit a defendant, having heard the testimony of his witnesses, to go on the stand and correct his testimony to jibe with others. I think it is entirely improper.

THE COURT: I will permit him. You can comment to the jury if you choose, on that subject, but I think it would be manifestly improper in me to hold the defendant to a story which he says was a mistake. ~~The~~ He may have the benefit of correcting it if he desires.

BY THE COURT:

Q You may answer the question. A I went down to the poolroom in response to a messenger who called for me, a young boy.

BY MR. FITZGERALD:

Q Was he a uniformed messenger boy? A No, sir.

(No cross-examination.)

MR. FITZGERALD: Now, if your Honor please, a club has been offered here and used, but I understand it is not in evidence.

THE COURT: Question!

MR. TRAIN: I offer it in evidence. I thought it was in evidence.

CASE # 361

9 3 2 0

THE STENOGRAPHER: No; it was only marked "For Identification People's Exhibit No. 8".

THE COURT: I do not know that it has been offered in evidence. It is here, exhibited to the jury, and witnesses have been questioned about it, and I take it that that puts it in evidence. There is not anything more to be said about it that I know of.

BY MR. FITZGERALD:

Q I asked you about that stick which is on the clerk's desk, whether or not you recognize that as one of the sticks that was ever in your poolroom? A I couldn't swear that that stick was there.

Q You said that there were sticks there? A Yes, sir; there were.

Q But you can't swear positively that that identical stick was there? A No, sir.

MR. TRAIN: I object. We have been all over this.

THE COURT: We have been over this before.

That is precisely the testimony that was elicited before on that subject.

DEFENDANT RESTS.

CASE # 361

REBUTTAL TESTIMONY.

FRANCIS J. KEAR, being recalled by the People,
testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q You testified that, in response to a message from the defendant, you called him into your office? A Yes, sir.

Q On what occasion did you tell him that you would not listen to what he had to say, that he had had his chance to tell his story the day before?

MR. FITZGERALD: I object, if your Honor please.

If there is any conversation to be related, let us have it related in the regular and lawful, legal way.

THE COURT: What, if anything, did you say to him?

MR. TRAIN: If your Honor please, Captain Kear is called merely to refute the defendant on a certain point. He has stated already what he stated and what the defendant said to him.

THE COURT: I changed the form of your question simply.

BY THE COURT:

Q What, if anything, did you say to him with reference to his then making any statement? A The prisoner asked, when he came out into the office,-- stated to me that he wished to make a statement. I told him I didn't wish him to

198 # 361
CASE # 361

say anything but the truth, that anything he would say might be used against him. He then told me that DeCamp had put up the job to rob Mr. Carroll, and that DeCamp had the property, that is, the watch and other property outside of the ring; and the ring he got.

BY MR. TRAIN:

Q He said the ring he got? A Yes.

Q Did he use the words "DeCamp put up the job"?

A Yes, sir.

Q Did he tell you anything about the circumstances of the crime? A No, sir.

Q Did he say that he was on the street, and saw DeCamp hit Carroll? A No, sir.

MR. FITZGERALD: I object, if your Honor please, that it is not rebuttal.

MR. TRAIN: But that is the testimony of the defendant. I can't rebut it in any other way.

MR. FITZGERALD: That is the testimony of the Captain on his previous examination?

MR. TRAIN: I cannot teach counsel.

THE COURT: No, not so much talking.

BY THE COURT:

Q Answer the question, Captain, please. A No, sir.

BY MR. TRAIN:

Q Didn't say that? A No, sir.

CASE # 361

Q Did he say that, after seeing this, he ran away and took a street car and went home? A No, sir.

Q Did he say that he went back to find Carroll?
A No, sir.

Q Now, I show you a pistol (Handing People's Exhibit No. 8 for Identification), and ask you when the first time was that you saw that pistol anywhere? A I saw that in the poolroom at 79th Street and Columbus Avenue.

Q Where was it? A It was a case where they keep cue tips and one thing and another of that kind.

Q Did you remove it? A I think Officer Coleman took it out, if I am not mistaken.

Q It was taken in your presence? A It was taken in my presence.

Q From the cigar case in the defendant's poolroom?
A Yes, sir.

Q At the time it was taken, did it have any cartridges in it? A Yes.

Q How many? A I don't know the number; I couldn't say positively.

Q Was it full loaded or partially loaded? A That is a question I couldn't answer.

Q Can you recall the name of the officer who took the revolver? A The revolver out of the case?

Q Yes. A I think it was Coleman; I am not positive.

1967-361

Q Coleman? A I think it was Coleman.

Q And it was taken then to the police station? A Yes,

Q Was that on your first visit to the poolroom? A No; that was on the second visit.

Q What time of the day was that? A That was in the afternoon.

Q The first visit having been in the morning between nine and ten? A Yes, sir.

CROSS EXAMINATION BY MR. FITZGERALD:

Q Captain, was the revolver stained with blood stains?

A No, sir, not that I know of.

Q Did it have any different appearance than from what it has now? A No, sir, not that I know of.

J O H N C O L E M A N, being recalled by the People, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q Officer, I show you a revolver (handing People's Exhibit No. 8 for identification, and ask you if you have ever seen that before? A (After examining) Yes, sir.

Q Where did you first see it? A In the station house.

Q You did not take it from the case, the defendant's cigar case? A No, sir.

Q On the morning of the 5th of March did you meet James Shannon near Donogue's poolroom between 78th and 79th Streets?

A Donohue's?

Q Yes. A No, not that I remember.

Q Where did you meet him that morning, if at all?

A On the morning of the 5th?

Q The 4th of March--I will correct my question; I withdraw it. On the morning of the 4th of March did you meet

CASE 77361

James Shannon between 78th and 79th Street? A No, sir.

Q Where did you meet him? A Corner 78th Street and Amsterdam Avenue.

Q And he went to De Camp's house? A He was about 20 feet from it, I guess.

Q What was he doing when you met him? A Just came directly towards me.

Q You were there and he came towards you? A Yes; I had just come from De Camp's.

Q Then you had some conversation? A Yes.

Q You asked him to go upstairs and tell De Camp you wanted to see him? A Yes, sir.

Q You saw him come from De Camp's house? A Yes.

CROSS EXAMINATION BY MR. FITZGERALD:

Q Why didn't you testify to that yesterday? A I did testify yesterday to that.

Q That you saw James Shannon coming from De Camp's house; you did testify to that? A Yes, sir. When I met him coming from De Camp's house it was after he went up to De Camp.

Q After he went up to De Camp? A Yes, sir. After seeing De Camp he came down to see me.

Q You sent him up to De Camp, did you not? A I sent him up to De Camp.

1937
CASE 77361

RE DIRECT EXAMINATION BY MR. TRAIN:

Q Where did you first see Shannon on the morning of the 4th of March? A First see him?

Q Yes. A The first time I seen him was in the poolroom when the Captain was talking to Hunsaker. That was the first time.

Q In his pool room where he worked? A Yes, sir.

Q Was Hunsaker there? A Yes, sir.

Q Hunsaker was there? A Yes, sir.

Q And Shannon was there? A Yes, sir.

Q And the Captain was there? A The Captain was there, yes, sir.

Q And then you did ask Shannon to do something?

A Not in the poolroom.

Q Not in the poolroom? A No, sir.

Q Shannon remained in the pool room until you left?

A Yes, sir.

Q Did you have any talk with him in the pool room?

A I don't remember.

MR. FITZGERALD: One moment.

(No ruling.)

BY MR. TRAIN:

Q Nothing that you recall? A Nothing that I recall.

Q Where did you next see him? A At 78th Street and

Q 327

1961

Amsterdam Avenue.

Q Where you have just testified about? A Where I have just testified.

Q Coming from De Camp's house? A No; he was coming towards De Camp's house.

Q And you ~~xxxx~~ asked him to go to De Camp's house? A No, sir.

Q When he got over to you did you then have some conversation? A Yes, sir.

Q Which was-- A He said that he was upstairs.

Q He said he had been upstairs? A No; he said De Camp was up there. He said, "I will go up to him." I said, "Go ahead."

Q He had heard some conversation between the Captain and Hunsaker? A Yes, sir.

Q And you had not asked him to go to DeCamp's house? A Not at that time.

Q You had gone there? A I had went there.

Q And after you had got there, you saw DeCamp coming over? A Not DeCamp.

Q Saw Shannon coming over to DeCamp's house? A Yes, sir.

RE-CROSS EXAMINATION BY MR. FITZGERALD:

Q What is the number of DeCamp's house? A 200 West 78th Street.

CASE # 361

Q On which corner would that be? A On the southwest.

Q On the southwest corner? A Yes.

Q And where was Shannon? A Coming catacornered
over.

Q From where? A From the east side of Amsterdam
Avenue.

Q He was coming in a southwesterly direction?

A No, just about this way. (Indicating).

Q Over towards DeCamp's house? A Towards DeCamp's
house.

Q And where were you standing, Officer? A I was just
coming right from the direction of DeCamp's house.

Q Which way were you going? A I was going east.

Q You were going east and he was coming southwest?
A Was coming southwest.

Q Is this just as true that Jim Shannon was coming
towards you, as that he was coming towards DeCamp's house?

A Yes; might have been.

MR. TRAIN: I want the privilege, if I may have it,
of recalling Walter Shannon.

MR. FITZGERALD: Make him your witness.

MR. TRAIN: I would like to recall him, for an
additional word of cross-examination.

THE COURT: Yes.

CASE # 361

WALTER SHANNON, being recalled for further cross-examination, testified as follows:

BY MR. TRAIN:

Q Did you give up to one of the officers in this case the jewelry? A No, sir; I gave him up a diamond.

Q You gave up a diamond? A Mr. Cleary -- Officer Cleary came up and told me that there was a diamond underneath the carpet in the bedroom.

Q Yes. A And he told me to go and look for it, which I did in his presence. And I found it and I handed it over to him.

Q Now, did you never see the other exhibits in this case, a watch, pencil, a ring and a couple of cuff buttons?

A Yes, sir.

Q Where did you see them first? A I saw them when I got them from the young lady, from the roof.

Q What young lady was that? A Miss Duran.

Q A young lady who works in your house? A Yes, sir.

Q What does she do there? A Mr. Cleary said --

Q What is this young lady -- what is her position in your house? A She works around there.

BY THE COURT: --

Q A servant? A Yes.

BY MR. TRAIN:

0339

191

CASE 7-161

Q And she gave you these? A Yes.

Q What did you do with them? A I went down ^{right} immediate-
ly and gave them to Mr. Cleary.

Q To the officer? A To the officer.

Q How long after giving up the diamond was that?

A The diamond came after that.

Q This was before the diamond? A This was before the diamond.

Q And did you see where this Miss Duran got these?

A No, sir.

Q Where was it that she gave them to you? A She gave them to me on the head of the stairs. She came down from the roof.

Q She came from the roof? A yes.

Q Do you know how she happened to go to the roof?

A Well, that I couldn't say.

FURTHER DIRECT EXAMINATION BY MR. FITZGERALD:

Q When she gave you those articles, was that ring among them?

MR. TRAIN: There is no pretence that it was.

MR. FITZGERALD: Do you concede that?

MR. TRAIN: That is the evidence in the case.

MR. FITZGERALD: All right.

THE COURT: Gentlemen, I must admonish you again

1961

not to converse among yourselves nor to permit anyone to
converse with you on any subject connected with the case
on trial, and not to form or express any opinion until
the case shall finally be submitted to you. You may
adjourn for the day.

Adjourned to Wednesday, April 22nd, 1903, at
10:30 A. M.

THE PEOPLE vs. HUNSAKER.

Wednesday, April 22nd, 1903, 10:30 A. M.

T r i a l R e s u m e d .

~~R O B E R T B . D e C A M P~~, called as a witness on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q De Camp, you are the co-defendant in the case of the People of the State of New York against Robert B. De Camp and Walter L. Hunsaker for Robbery in the First Degree?

A I am.

Q You have pleaded guilty of Robbery in the First Degree? A I have.

Q Under this indictment? A I have.

Q Prior to your arrest in this case, where did you live? A 200 West 78th Street, Borough of Manhattan, New York.

Q Whom did you live with? A My mother.

Q How long did you live there? A Two years and one-half in that house.

Q How old are you? A 21.

Q How long have you lived in New York? A About seven years.

Q And before that where? A Lived at Tarrytown, New York.

CASE # 361

Q Were you born in Tarrytown? A I was born in New York City, sir.

Q Are you prepared to testify in this case? A I am.

Q How long have you known the defendant? A Since about the 1st of February, of this year.

Q Have you frequented his place of business? A I have.

Q How long have you known Clabby- Francis Clabby?

A Since about the middle of February.

Q Of this year? A Of this year.

Q And did he subsequently come to reside with you?

A He did temporarily.

Q Do you recall the evening of the 3rd of March and the early morning of the 4th of March of this year? A I do.

Q Will you state where you were on that evening?

A Previous to 11 o'clock I was for the greater part in the defendant's place of business.

Q Who else were there? A Why, there were a number of persons, patrons of the place.

Q Who that you knew? A Clabby was one and there was one Oscar Walker, an employe of the defendant's.

Q Was anybody else playing? A Previous to 11 o'clock there were a number of persons; I don't recall who they were.

Q Now, what ~~xx~~ were your relations with the defendant?

MR. FITZGERALD: One moment; I object to that question as being too general., "What were your re-

CASE 77361

lations with the defendant?"

THE COURT: Yes; objection sustained.

BY MR. TRAIN:

Q Were you a friend of the defendant's Hunsaker?

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

BY THE COURT:

Q Were your relations with Hunsaker friendly? A Yes,
sir, they were.

Q Did you go out with him nights? A Sometimes.

BY MR. TRAIN:

Q How many nights since you knew him have you been out
and about with him? A Probably a half a dozen nights.

Q Drinking in his company? A Occasionally.

Q And out late? A Sometimes.

Q You are an habitue of his place of business; do you
go there frequently? A Yes, I did.

Q Did you play pool there? A I did.

Q And have you seen Clabby there frequently? A Yes,
sir, I have.

Q Have you ever been out at night with the defendant
in the company of Clabby prior to the 3rd of March? A One
evening we went to his house to dine.

Q Who went? A Clabby and I-- we.

Q Both of you? A Yes. Went to the defendant's house.

196-361

Another evening we left his place and went to two or three places with him.

Q With the defendant? A With the defendant.

Q And the other occasions, when you say you had been with the defendant, Clabby has not been with you? A Clabby was not with us.

Q What ^{time} did you get to the defendant's poolroom?

A On March 3rd?

Q Yes. A I think about 8 o'clock.

Q How long did you stay there? A The greater part of the evening.

Q And when you left, who left the pool room with you? A Oscar Walker, the defendant, Francis Clabby and myself.

Q Did the colored man leave also? A Yes.

Q Was the saloon closed; I mean, did any one shut the saloon up. A The poolroom?

Q Yes. A Yes, sir.

Q Who closed it? A Either the defendant or his employees, the colored man.

Q Anyhow the place was closed for the night? A Yes, that place was closed.

Q Then ~~where~~ where did you go? A To the saloon of Eugene Brown, on the southwest corner of 80th Street and Col-

CASE # 361

umbus Avenue.

Q Did the defendant take any drinks there? A Yes, sir.

Q What did he drink? A Whiskey high balls.

Q And did you drink? A I did.

Q And Clabby? A Yes; Clabby drunk beer.

Q And from there did you go to other places? A We left the saloon of Eugene Brown on the solicitation of the defendant and went to the house of a young lady named McCann, whose first name I don't know, who lived with a family named Lord, on the second westerly apartment of 206 or 208 West 80th Street.

MR. FITZGERALD: I move to strike out of the witness' testimony that he went at the solicitation of the defendant, unless he states the conversation that took place.

THE COURT: Motion granted.

MR. TRAIN: Consented to.

Q What did the defendant say in regard to your going to the house of this woman McCann? A I don't remember the conversation verbatim.

BY THE COURT:

Q Give your best recollection of the words. A "Let us go down to see this woman McCann."

BY MR.: TRAIN:

Q Now, did he say anything about having loaned her money?

CASE 77361

MR. FITZGERALD: Objected to.

BY THE COURT:

Q What else did he say about her, if anything? A Nothing at that time that I remember.

Q All he said was, "Let us go down and see this woman McCann". A That is all I remember.

Q Did you know the woman McCann? A Yes, sir; he had introduced me to her.

Q How long have you known her? A About a week or two.

Q Did you know that she was a prostitute? A He had alleged to me she was.

Q Who? A The defendant.

B THE COURT: Now, go right on.

BY MR. TRAIN:

Q Had you gone to her house with him? A Never before.

Q Did the defendant say anything to you about having loaned this woman money? A Not that night.

Q Previously or afterwards. A Yes.

Q Which? A Previously.

Q He said he had loaned to her money? A Yes; he said he had loaned her money.

Q Did he say anything that night about going there for the purpose of getting the money?

196-7-361
CASE 7-361

MR. FITZGERALD: I object.

MR. TRAIN: This is in rebuttal, if your Honor please.

MR. FITZGERALD: Let him state the conversation.

MR. TRAIN: Certainly, that is what I am trying to bring out.

(No ruling.)

A No, not to my recollection.

Q Did you get in at the McCann woman's house? A We rang the bell and she came to the rear door of the lower apartment and the defendant and I had a conversation with her there, and on the public stairway of that house.

Q What did the defendant say, if anything, that you recall? A I don't recall the conversation.

Q Did the defendant's conversation have anything to do with money? A Not that I recall.

Q From there where did you go? A As far as 80th Street and Amsterdam Avenue.

Q Where did you first meet Mr. Carroll? A First met Mr. Carroll in the Hartford lunch room on the southwest corner of 81st Street and Amsterdam Avenue.

Q Did Mr. Carroll drink anything in the Hartford lunch room? A No; there were no drinks served there.

Q At that time did you observe whether Mr. Carroll was sober or not? A Mr. Carroll seemed to be in a sort of joyous

CASE 77361

mood, I wouldn't call him intoxicated, though.

Q You had all been drinking? A We had all been drinking, yes, sir.

Q How long did you stay in the Hartford Lunch room?

A I think about 20 minutes.

Q From there where did you go? A We attempted to gain entrance to the saloon of John Callan on the northwest corner of 81st Street and Amsterdam Avenue. From there we went to the saloon of Witte & Schmidt, on the southeast corner of 83 Street and Amsterdam Avenue, and failed to get in, and then we walked down either West 83rd or 84th Street to Columbus Avenue and thence to the saloon of Edward Bowersmith at 424 Columbus Avenue and failed to get in there.

Q You went to four saloons? A Three saloons.

Q Was Carroll with you all this time? A Carroll was with us all this time.

Q Did you finally get into any saloon? A We got into the restaurant of Joseph Kenelly.

Q Did you have anything to drink? A We did.

Q What time of night was it? A It must have been after two o'clock.

Q Then how did you come to leave Kenelly's? A We ~~walked~~ concluded-- if I remember correctly we concluded we had had enough to drink.

Q Yes. A And we went out of there; and James Mahon, who

CASE 77361

had been in our company all this time left us about 83rd Street.

Q And then where did you go? A Went to the place of business of the defendant.

Q Do you remember who suggested going there? A The defendant.

Q What did he say? A He said, "Let us go down and play pool."

Q Now, you went back to the defendant's pool room?

A We did.

Q Did you stop on the way? A Not that I recall.

Q And your party consisted of whom? A Charles A. Carroll, Francis Clabby, the defendant and myself.

Q And when you got back to his poolroom, describe how you got in. QA The defendant, if I remember correctly, locked the door. When we got in we found Oscar Walker.

Q That is the same colored man? A The same colored man; we found him in the ~~place~~ place.

Q Where was he? A I think he was in there for the purpose of sleeping.

Q You don't remember whether he was actually asleep when you got in there? A No, sir.

Q What did you do first? A We engaged in a game of pool.

Q The whole crowd? A If I recollect correctly there

CASE # 361

was more or less irregularity with the play.

Q Who was the most intoxicated of the lot, except yourself?

MR. FITZGERALD: If your Honor please, I object to the question as it does not appear that this witness was in a position to characterize the condition of the others.

MR. TRAIN: I don't want him to characterize his own condition.

THE COURT: No, objection sustained.

BY MR. TRAIN:

Q Now, Mr. Carroll, was he intoxicated? A In a certain measure I think he was.

Q Was Clabby intoxicated? A No.

Q Was Hunsaker intoxicated? A I don't think he was.

Q Were you intoxicated? A Somewhat.

Q Were you able to play pool up to your usual standard? A No, I don't think I was.

Q Did you continue to play? A I sort of dropped out of the game at the suggestion of the defendant.

Q What did he say? A He said, "You drop out of this and let the rest of us play it out!"

Q What did you do? A I dropped out.

CASE # 361

Q Where did you go? A I remained in the pool room.

Q Whereabouts in the pool room? A At the cigar counter, part of the time.; in different parts around the first table, or the one nearest the door.

Q Now how long after you dropped out of the game did the game continue between Clabby, Carroll and the defendant?

A I should say for about thirty minutes or more.

Q And then you dropped out, if anybody? A The game ceased.

Q Did all hands stop? A I think they did.

Q What happened then? A We went out--

Q I am taking this step by step, very minutely. Did any one speak to you at any time? A Yes, sir.

Q Whom? A The defendant spoke to me.

Q Now was that after he had stopped playing? A No; that was during the progress of the game.

Q How did he happen to speak to you? A He said---

Q Not what he said yet. But he is playing at the table, now, you say you are at the cigar case. Describe how he happened to speak to you? A Well, some of the players were engaged in the game and he came over to where I was.

Q State what conversation you had with him, what he said to you and what you said to him? A He said, "Let us get this man out on the highway and turn him off."

Q And "turn him off"? A Yes, sir; a common expres-

CASE # 361

sion--

MR. FITZGERALD: One moment.

(No ruling)

BY MR. TRAIN:

Q Well, that is what he said, to "turn him off"?

A Yes.

Q What did you say to that. A I said, "No, better not; I don't want to."

Q What did he say? A He said, "It will be all right. Get the cue from under the counter. One blow in the head will stun any man and won't cut the scalp or injure him severely. I have struck several men with the same weapon and it did them no great injury."

Q Did he say where he had struck them? A He did not.

Q At that time did you see the cue? A I knew where there was a cue in the place.

Q An end of a cue? A Yes, sir.

Q Had you seen it before? A I had.

Q How often had you seen it? A Several times.

Q Did you ~~px~~ play pool in this room before the defendant became the proprietor of it? A I did.

Q Had you ever seen a cue before that time? A No.

Q I show you a cue and ask you if you ever saw that before? A Yes, sir, I have seen that cue.

Q Is that the cue that you refer to? A That is the

198
CASE 361

cue.

Q Now, how did the conversation between yourself and the defendant conclude? A When he had said he had struck ~~xx~~ several men before--

Q You have said that. What after that? A He told me to get the colored man to put the cue in my overcoat pocket, and that I should take the complainant out on the sidewalk, and that I should strike him on the head and that he would give me all the assistance necessary in clearing out the assault and robbery and that he would expect an equal division of the proceeds of the robbery between himself and myself.

Q Now that is the gist of what he said? A That is the gist of what he said.

Q Now, did you take the cue and put it in your pocket? A The colored man, Oscar Walker put the cue in my pocket.

Q Did you ask him to. The defendant told me to.

Q Where was your coat, on or off? A It was lying on the cigar counter, if I remember correctly; it was not on my person.

Q Now, at that time did you observe any weapon, either in or on the cigar counter? A Any weapon?

Q Yes. A No, not at that time.

Q Had there been in the course of the evening? A Yes, there had been a six chambered blue steel revolver, the

1937
CASE 77361

property of the defendant.

MR. FITZGERALD: If your Honor please, the last part of the answer I move to strike out.

THE COURT: State the part you refer to.

MR. FITZGERALD: The statement that it was the property of the defendant.

THE COURT: Strike that out.

BY MR. TRAIN:

Q Where had this revolver come from? A It was always -- it was in the case at the time; always had been there.

Q How often had you seen it in the case? A I had seen it in the case as long as I remember. the defendant being the proprietor of the place.

Q Now, I show you a pistol and ask you if that is the pistol? A No; that is not the pistol.

Q Did you ever see that pistol before? A Yes, I have seen that pistol before.

Q Where? A In the possession of Mr. Walker, the colored man.

Q Where? A In the pool room.

Q In any particular place? A In his inside waist coat pocket.

Q Did you see it that night? A I saw it in the early part of the evening.

Q When did you last see it? A Before the poolroom was closed on March 3rd.

Q Whereabouts? A In the possession of the defendant-- in the possession of Oscar Walker.

Q In his pocket? A Yes, in his pocket.

Q Was it in the case? A No, it was simply in his pocket.

Q Now, where was this blue steel revolver? A What time?

Q When you first saw it that evening? A It was in the case, the cigar case.

Q In the cigar case? A Yes.

Q Was it in something? A No; it was lying on top of some cigar or cigarette boxes.

Q Did you see the weapon removed from the case? A Yes, sir.

Q When was it removed from the case? A It was before Clabby, Hunsaker, Walker and I had left the pool room.

Q The first time? A That was the first time.

Q When the saloon was first closed? A When it was first closed, yes, sir.

Q Did the defendant take it from the case? A He did.

Q Now, having had this conversation with the defendant, what did the defendant do; you say he interrupted a game to

1937
CASE 77361

Q speak to you? A Yes.

Q Having first asked you to drop out? A Yes, sir.

Q What did he do then? A Why, he continued in the game until it was finished and then collected the amount of money due for it from the complainant.

Q About how long was that? A I should say it was-- How long what?

Q After he had spoken to you how long did that game continue? A Probably about fifteen or twenty minutes.

Q Now, after Carroll had paid him, what was the next thing that happened? A Mr. Carroll and I went out on the street.

Q Yes; did you observe who came next? A No, sir; I did not.

Q How far did you go with Mr. Carroll? A I ~~went~~ walked to 79th Street and then in a westerly direction along 79th Street about 125 or 150 feet.

Q Had anything been said by the defendant to you about hitting Mr. Carroll and robbing him? A Yes, sir.

Q Except that time he dropped out and spoke to you by the cigar case. A That was all.

Q That was the only time. A That was the only time.

Q Now, describe what you did. A I walked back 125--

Q Now, wait a minute. What was the next thing you did to Mr. Carroll? A Knocked off his hat and I struck him

CASE # 361

one blow in the head, remembering what the defendant had told me.

Q You struck him with this (showing butt of billiard cue)? A I struck him with that.

MR. FITZGERALD: If your Honor please I move to strike out the words "remembering what the defendant told me."

THE COURT: Strike that out.

BY MR. TRAIN:

Q How many times did you strike Mr. Carroll with this billiard cue? A About six or seven times.

Q He had turned around? A He had turned around.

Q When were you first conscious that any other person was present?

MR. FITZGERALD: I object to the question.

BY THE COURT:

Q Was there another person present? A There was another person present.

Q When did you first observe that other person? A When the defendant came up and struck Carroll alongside of the head, or on top of the head with the revolver butt.

BY MR. TRAIN:

Q What part of the revolver did he strike him with?

A With the butt of the revolver.

1937 361

Q Did the defendant say anything? A No, he did not, to my knowledge.

Q Now, how many blows had you struck Carroll with this cue before the defendant appeared there and used the revolver?

A I should think about six or seven.

Q Was he lying down or standing up? A He was standing up.

Q Did Mr. Carroll struggle with you? A He grappled with my arms.

Q Were you able to down him with the cue? A I was not.

Q Now, when the defendant struck Carroll with the butt of the pistol what happened then? A Mr. Carroll fell to the ground with a groan.

Q Now, when he was there did he struggle or lay still? A He laid perfectly still.

Q Now, did the defendant say anything at any time until this was all over? A Not until we were through robbing him.

Q What did you do after Carroll fell? A I took from his person the gold watch, the gold and platinum chain and the gold lead pencil and one gold cuff button set with one diamond.

Q Now, I show you various exhibits (indicating People's Exhibits) and ask you if that is the watch? A That is the

0350
CASE 77361

watch.

Q Is that the pencil? A That is the pencil.

Q Is one of those exhibits the stud? A Yes, the one with the diamond.

Q Did you take the other stud? A No, I did not.

Q Now, how did you take these from Mr. Carroll?

MR. FITZGERALD: I object.

(No ruling)

A I pulled them.

BY MR. TRAIN:

Q Did you break any of them? A I think I broke the chain.

Q While you were doing that did you see what Hunaker was doing? A Hunsaker was working on one hand of Mr. Carroll's.

Q When you say "working on one hand of Mr. Carroll's", what do you mean? A He was doing something with one hand of Mr. Carroll's.

Q Did you see what he was doing? A No, I did not.

Q While you were engaged in robbing Mr. Carroll, did you observe whether any other person was near you? A There was no other person near us at all.

Q Was there any other person on the street that you could see? A Yes, there was one other person.

Q Who was that? A Francis Clabby, 150 feet away.

Q Where? A Near Columbus Avenue and 79th Street,

193-7-361

on the north side of the street.

Q Was he there during all the time that you were doing these things? A Yes.

Q Did you see when he left? A When Hunsaker and I left, he left.

Q He waited until you got through? A Yes.

Q He knew what was going on? A I don't know that he did.

Q But he waited at this distance while you were doing it? A Yes, he waited.

Q Then you all three went away together? A We went over to Central Park West.

Q Now, while the defendant was working as you say on one hand of Mr. Carroll's, did you see anything in his hand; did you see whether he still held the revolver?

A I didn't observe.

Q Didn't see? A No.

Q Did you see him do anything else besides working at this hand? A No, sir, I did not.

Q Now, I want you to be careful and answer this question: How long do you think it took you and the defendant to remove the property from Mr. Carroll's person? A I think less than five minutes.

Q Do you think it took you five minutes?

CASE 77-361

MR. FITZGERALD: I object, if your Honor please.

The witness was asked the simple question and he answered it in the plainest language. It admits of no equivocation.

THE COURT: Yes.

BY MR. TRAIN:

Q Less than five minutes? A Yes, sir.

Q How much less than five minutes? A I couldn't tell.

Q Was it one minute or four minutes?

MR. FITZGERALD: If your Honor please, I object.

Objection overruled. Exception.

A I should say nearer four minutes.

Q Nearly four minutes? A Near four minutes, yes, sir.

Q Did you experience any difficulty in getting the property? A Yes, sir.

Q Did you observe whether the defendant had any difficulty in what he was doing? A He seemed to take quite a good deal of time with what he was doing.

Q Who got up first? A I think I did.

Q What did you do then? A I was then joined by the defendant and we ran.

198
CASE 7361

Q You ran to where Clabby was? A Yes, sir, to where Clabby was.

Q Then from there where did you go? A Went through Manhattan Square Park.

Q How far did you go? A Went over to Central Park West.

Q Were you ~~xx~~ running at that time? A Part of the time we were.

Q Where did you stop running? A In front of some lamp-post. I don't remember the location of it.

Q What was the next thing that happened? A The defendant handed over to me a gold ring-- the bottom of it was broken-- in which there remained two diamonds and a setting in the centre of the two diamonds that remained, which was empty, saying to me, "Here is your share of the ring. I want the other stone to make a ring for my wife."

Q Now, is that the ring (showing People's Exhibit)?

A Yes, that is the ring.

Q Did the defendant Hunsaker say anything else about this ring than what you have stated already? A No; he said nothing else about the ring.

Q Did you see the diamond taken from the ring? A No, I did not.

Q It was not there when the defendant handed it to you? A Do you mean did I see any one taking it or did I see

1961-7-361

the diamond that was taken?

Q No; my question is, did you see who took the diamond from the ring? A No, I did not.

Q Had it been taken when the defendant handed the ring to you? A Yes, it had.

Q Had you made any speeches on your way to this point?
A Not that I recall.

Q Do you know when the diamond could have been taken from the ring? A It must have been taken from ~~it~~ ~~during~~ the time it was being taken from the person of Charles A. Carroll, and the time it was given to me.

MR. FITZGERALD: If your Honor please, I move to strike that out.

THE COURT: Strike it out.

BY MR. TRAIN:

Q Did you see the diamond? A Yes, sir, I saw the diamond.

Q How did you come to see the diamond? A The defendant showed it to me.

Q What did he say? A He said, "There is the centre stone."

Q Is that the diamond he said he wanted for his wife?
A That is the diamond.

Q Then what did he do with the diamond? A Put it in

1961

his pocket.

Q Which pocket, did you notice? A The pocket of his waistcoat, if I remember correctly.

Q Did you take the ring? A I took the ring.

Q Did you put it with the other jewelry? A I put it with the other jewelry.

Q Where? A In my overcoat pocket.

Q What had Crabby done or said in regard to this affair? A He had said nothing at all.

Q Now, how long did you stop under this lamppost?

A Only a few minutes.

Q And from there where did you go? A We walked down Central Park West as far as 74th, 75th or 76th Street.

Q Was anything said on the way down? A Not that I recall.

Q Did you make any statement in regard to nothing being said of what had happened? A Not that I remember.

Q Do you remember threatening the defendant? A I do not.

Q Do you remember threatening Clabby? A I do not.

BY THE COURT:

Q Did you? A I don't remember.

BY MR. TRAIN:

Q Do you mean by that that you are ready to swear that you did not? A No, I am not.

Q You recollect everything that you stated and did on

1937-361

that occasion? A On the walk down Central Park West?

Q No; during the evening, is it all perfectly clear or are there some things you don't remember? A I don't remember that statement.

Q Where did you separate? A We separated on one of the three streets I have mentioned., either at Central Park West or at Columbus Avenue.

Q Did the defendant make any statement? A Not that I recall.

Q Where was the billiard cue? A In my overcoat pocket.

Q And did you take it out? A I think I did.

Q Do you remember saying anything about it? A I think I made the remark that that was the cue that I had hit Carroll with.

Q Was it bloody? A I don't remember.

Q Was it bloody when you got home? A Yes, I think it was.

Q What did the defendant say when he left you, in anything? A He said that he would go home and that we should keep away from the pool parlor the following day.

Q And then did you go home with Clabby? A I did.

Q Did you see the defendant again that night? A No, I did not.

Q What time did you get home, do you remember? A Between four and five o'clock, if I remember correctly.

0357

CASE 7361

Q Did you go to bed? A Yes, sir.

Q What time did you get up? A About eight or half past.

Q Did you notice the condition of your coat? A I did.

Q What was it? A There was blood on it.

Q Did you do anything in the way of cleaning the cue or your coat? A Yes; I cleaned them both with oxalic acid.

Q Some that you had there? A Some that I had there, yes.

Q What did you do with the coat? A I kept it in my room.

Q You didn't hide it? A No, it was in my room the entire evening.

Q Did you hide the cue? A Yes, I hid the cue.

Q Where did you hide it? A In the bookcase in my room.

Q Now, was Clabby up when you got up? A No, I got up first.

Q Then did anyone come to your room? A Yes, sir.

Q Whom? A My mother.

Q Did you have any conversation with her? A Yes.

Q And then what happened? A I dressed.

Q And then? A I had been informed that the detectives had been there.

Q Now, how were you informed? A My mother told me so.

1967
CASE # 361

MR. FITZGERALD: If your Honor please I move to strike out--

MR. TRAIN: Oh, certainly.

MR. FITZGERALD: ---his information and all his mother told him.

THE COURT: Yes.

BY MR. TRAIN:

Q Was the door locked? A The door was locked, yes.

Q What was the next thing from the outside world that reached you? A Word that Mr. Coleman had been there.

Q Who brought that word? A My mother.

Q What happened then? A After that James Shannon, a stepson of the defendant, in company with a William Skoog, a patron of the defendant's place, came to my house.

Q Were you at that time up in your room? A I was at that time up in my room.

Q Did you have the jewelry? A I had the jewelry.

Q What hour was this? A It must have been nine o'clock.

Q Was this James Shannon? A James Shannon.

Q Was it before or after or at the same time that you were informed that Coleman was downstairs? A That was after? A About ten or fifteen or twenty minutes.

Q Had you gone down? A I had not gone down.

1961-7-26

Q Now, when Shannon came, what did he do? A He said that the police had been to Hunsaker's house and that Hunsaker told them that he knew nothing about the affair, and that Clabby and I should make the same statement.

Q Did he say anything about the jewelry? A No, sir; he said nothing about the jewelry.

Q Did you say anything about the jewelry? A Yes.

Q What did you say? A And then he informed me that Coleman was downstairs and I said, "Here is the jewelry that we got from that man; take it." And he took it.

MR. FITZGERALD: If your Honor please, is this a conversation with Coleman?

MR. TRAIN: No, with Shannon.

Q This was with James Shannon? A Yes.

MR. FITZGERALD: If your Honor please, which they are objectionable, these conversations with James Shannon, I have no desire to object; but I do object to conversations with the police officer.

THE COURT: By consent we will receive them. They not having been objected to of course I made no ruling.

BY MR. TRAIN:

Q What did Shannon say about the jewelry? A He said, "All right, I will take it."

1936

1936

MR. FITZGERALD: One moment. Now, how is anything that Shannon said binding upon us?

THE COURT: In the first place it was not objected, and in the second place if it was objected you would be met with the answer that you brought out the original conversation. You put Shannon on the stand and inquired of him as to this conversation.

MR. FITZGERALD: Between him--

MR. TRAIN: Certainly; and the foundation was laid carefully by myself.

Q Was Clabby present at the time? A I understood you asked--

MR. FITZGERALD: If your Honor please, I have no objection to any conversations except conversations with this officer.

MR. TRAIN: Then why object?

MR. FITZGERALD: I don't know whether Coleman was there.

THE COURT: My memory is correct, is it not, Mr. Train?

MR. TRAIN: Yes, your Honor. I carefully laid a foundation for this yesterday by asking Shannon myself. Coleman was not present. This was upstairs in the room.

CASE 7-361

Q Now, you asked him to take care of it? A Yes, sir.

Q What did he say to that? A He said yes, he would do it.

Q What happened then? A Then he asked me about the cue, without any mention of it being made by me.

Q What did he say? A He said, "Where is the cue?"

Q What did you say? A I said, "I will give it to you;" and looked around and couldn't find it.

Q Why couldn't you find it? A I had not hidden it up to that time.

Q Where was it? A I afterwards found out that it was under the cover of a couch in the bedroom.

Q Did you put it there? A I had put it there the previous evening and forgotten where I put it.

Q After Shannon ^{had} come there and gone away did you go downstairs? A Yes, I did go downstairs.

Q Was Coleman there? A Yes, Coleman was there.

Q And did Clabby come down with you? A Clabby came down with me.

Q What happened then? A I left Clabby and Coleman, and I think Shannon and I went across the street to a mattress maker in company with an insurance adjuster from the Norwich Fire Insurance Company of Norwich, England.

Q This was across the street? A Across the street; and we left Coleman standing there.

193-7-361

Q And how long were you at the mattress place? A About five minutes.

Q And then? A I returned to where Coleman and Clabby were standing; and Shannon, I think, he was there.

Q Do you remember whether Shannon was still there? A My impression is he was.

Q What happened then? A Clabby, Coleman and I then went to the police station.

Q When you got there, were you locked up? A No, we were not.

Q What happened then? A We were kept there until the arrival of the captain, Captain Kear, who took me into his private room and questioned me.

Q Yes. A And afterwards, I think, if I remember correctly, he questioned Clabby, but not in my presence. Afterwards we were taken by the officers, Douglas and Coleman to Mr. Carroll in his apartment at 203--

Q Never mind about that. A And Mr. Carroll--

MR. FITZGERALD: I object.

A ---identified me as one of the parties who had been with him the previous evening.

THE COURT: Yes, objection sustained.

BY MR. TRAIN:

Q Before going to Mr. Carroll, while you were talking

CASE 77-361

with the Captain, had you made a statement? I don't ask you what it was. A Yes, I made a statement.

Q Was that a complete statement? A No, it was not.

Q After going to Carroll's what was done with you then?

A We were brought back to the police station.

Q Did you have conversations with any officials there?

A Not at that time.

Q When did you next see Captain Kear? A In the course of about half an hour, if I remember correctly.

Q Did you have another talk with him? A I don't think I did.

Q When did you have a talk with Captain Kear? A At the 54th Street court.

Q Had you been arraigned then? A No; it was before we were arraigned.

Q To whom did you first state the facts in this case, as you have stated them to-day? A To Captain Kear.

Q Where? A At the police station.

Q In full? A In full.

Q Now, since that time have you had any talks with the defendant? A Yes, sir.

Q How many? A Probably six.

Q Where; where was the first? A The first conversation I had was when my bail was raised and I was remanded to the Seventh District Prison.

CASE 77361

Q Where was this conversation? A In the corridor of the prison.

Q It was relative to what? A Relative to testimony that I should give.

Q Now, state what the defendant said, and what you said.

A My remarks were all in answer to the defendant's questions.

Q Well, what did he say? A The defendant said that, inasmuch as most of the testimony in the case pointed towards me, that I should plead and should turn him out, and that, inasmuch as Clabby had given information to the police, I could get even on him by attributing the defendant's acts to Clabby.

Q Now, had Clabby made a statement at that time? A He had made a statement to the police.

Q Had the diamond been found? A I don't know.

Q Had the jewelry been returned? A I don't know; I think it was.

Q Was anything said about fixing Mr. Carroll? A Yes, sir.

Q What? A The defendant said he was willing to spend as much as \$500 towards getting Mr. Carroll to not appear.

Q Where was the next conversation; was anything said about paying you or Clabby? A Yes, sir.

CASE # 361

Q What? A He said if I would attribute his acts to Clabby and turn him loose, he would pay to me or have paid to me or any other person whom I should direct, the sum of \$500.

Q Where did you have your next talk with him? A Going down in the prison van.

Q What was that relative to? A He told me that I should stick to him.

Q Anything more than that? A And there was another conversation about the Rogues' Gallery and the Bertillon System of Measurements.

Q What did he say about that? A He seemed to have a very good knowledge of it.

THE COURT: What did he say?

MR. FITZGERALD: If your Honor please, I move to strike that out.

THE COURT: Strike it out.

BY MR. TRAIN:

Q There was something said about the Rogues' Gallery?

A Yes, sir.

Q Where was your next talk with him? A At the barber shop on the third tier of the City Prison.

Q What was that relative to? A He said he hoped that I would get out of ~~it~~ the thing all right, and told me about a

CASE 77361

little girl having been born to his wife.

Q Anything else? A Not that I recall, that morning.

Q When was the next talk? A The next talk was a few days after at the same place.

Q Was anything new mentioned? A He repeated his offer of \$500.

Q Did you have any other talk? A Yes, I had a talk with him the morning of his trial.

Q When was that? A The day the trial was commenced here.

Q Where was the talk? A The talk was on the first tier of the City Prison.

Q State what it was? A The defendant said if I would ~~xxx~~ turn him out he could keep away from my trial, James Shannon, the colored man, Walker and that he would himself be out of town and go to St. Louis with his wife. He also said that he could have some influence with some of the police officers whose testimony had failed to get a warrant for James Shannon before the Grand Jury.

Q Was this before the trial commenced? A This was before the trial commenced.

Q After making your statement to Captain Kear, who was the next person to whom you made it? A I wrote a statement out and gave it to my counsel to be submitted to the District Attorney.

1967-161

Q You saw Mr. Rand-- A I didn't see Mr. Rand.

Q You later saw me? A I later saw you.

Q You appreciate the enormity of what you have done?

A I do.

Q The depravity of it? A I do.

Q And is what you have stated the truth? A It is
the truth.

CROSS EXAMINATION BY MR. FITZGERALD:

Q Mr. De Camp, is your father alive? A No -- yes.

Q How may I understand you? A Yes, sir.

Q Is your mother living? A Yes, sir.

Q And you live with your parents? A I live with my mother.

Q How long have you lived with your mother? A All my life.

Q You were indicted with Mr. Hunsaker for the crime of robbery in the first degree? A I was.

Q And yesterday morning at this bar you pleaded guilty to that indictment? A I did.

Q Had you at that time prepared a written statement? A Yes; it had been prepared a week ago.

Q Why did you volunteer yesterday to Walter Hunsaker that you would go on the stand in his behalf? A I didn't volunteer.

Q Didn't you tell him that you would go on the stand in his behalf? A I didn't tell him that I would go on the stand in his behalf.

Q Did he ever ask you to go on the stand in his behalf? A He did.

Q And you refused? A I did.

Q In what way did you refuse?

198-47381

MR. TRAIN: Objected to.

THE COURT: He may answer.

BY MR FITZGERALD:

Q What did you say? I told him that if I went on the stand I would tell the truth.

Q And that is what you have told here this morning?

A Yes.

Q You stated that you prepared to testify in this case. What preparation did you make? A I simply told the truth, that was all.

Q How did you come to send a statement to the District Attorney's office? A My counsel advised me to and I wished to.

Q You were advised by him to do so? A And I wished to.

Q Did you see any of the District Attorney's staff?

A I saw Mr Train once.

Q What conversation did you have with Mr Train? A Mr Train asked me certain facts relative to the assault.

Q Tell us the certain facts? A He wanted to know if I had struck Mr Carroll; and he asked asked also about the passing of the jewelry, and if Hunsaker had struck Mr. Carroll with the revolver; and if I had pleaded guilty or not guilty. That is all that I remember.

Q Was anything said to you with regard to a consideration

1967-361

that you were to receive? A No, nothing at all.

Q And what you state this morning is your own voluntary act in the cause of justice? A It is.

Q You would feel somewhat aggrieved if a criminal should escape punishment for this crime, would you not? A I would.

Q You would be very sorry to see a guilty man escape? A Yes, I would.

Q You would not be able to endure an imprisonment if you found that another guilty man was outside?

MR. TRAIN: Objected. to.

THE COURT: He may answer.

A I don't think that would make any difference in my ability to endure the punishment.

BY MR. FITZGERALD.:

Q You think you would endure it anyway? A I would.

Q How long have you known Hunsaker? A Since about the 1st of February, 1903.

Q And how long have you known Clabby? A Since about the middle of February, 1903.

Q When is the middle of February with you? A About the 15th or 14th.

Q Why do you say the 15th or 14th? A There are 28 days in February; the 14th would be about the middle.

Q Is that your best recollection? A That is my best

1903
CASE # 361

recollection.

Q How long have you had that recollection? A I have always had it, since the middle of February.

Q Did you have it a short time ago on your direct examination when you swore positively that you knew him from the 10th of February? A I don't remember swearing that I knew him from the 10th of February.

Q Can't you remember a circumstance which occurred only so short a time ago? A Yes.

Q And you don't know now as to whether -- you swear now that you did not say the 10th of February? A To the best of my recollection on my direct examination I said the middle of February.

Q Who introduced you to Clabby? A I don't remember.

Q Well, he came to live with you, didn't he? A Yes, he did.

Q When? A About a week previous to the assault on Charles A. Carroll.

Q How long had he lived with you, altogether? A About a week or so.

Q Slept in your house? A He did.

Q Ate at your table? A Sometimes.

Q Came in at all hours and went out when he pleased?

A No, he generally came in and went out with me.

Q You were with him most of the time during the day?

A No.

9 3 7 2

1936

Q Where would you separate? A At no particular place.

Q Where would you meet him generally? A As a rule at Hunsaker's pool room.

Q And from there? A Would go home as a rule.

Q You were around the pool room several times when Hunsaker closed up to go home, were you not? A I think I was.

Q And you walked out with him? A Sometimes.

Q Any body else in company with you? A As a rule we were alone. One evening I think I went out in the presence of twenty with the defendant.

Q Well, when you left the pool room -- A Yes.

Q Were you and he the only ones who left? A I don't remember.

Q Wouldn't you remember if there were more than you and he together? A I don't know that I would.

Q You remember distinctly that it was a half hours -- that it was a half a dozen times that you were in his company? A I ~~say~~ say, approximately a half a dozen times.

Q What do you mean by ~~approx~~ approximately? A About half a dozen.

Q More or less? A It may possibly be more and it might be less.

Q Then you are unable to say with any accuracy how many times you were in his company? A I should say about a half

0 5 7 3

CASE 7-361

a dozen times. That is as accurate a statement as I could give.

Q Can you state approximately about how many were in the company?

MR. TRAIN; Well, when, I object to it.

A When?

MR. FITZGERALD: At any time he was with him.

A (Continuing) I remember on one occasion going out with the defendant alone and on another occasion I went in the company of Clabby, aside from the evening of the assault.

Q Do you recall any other occasion? A I don't recall any other.

Q (Continuing) --when anybody else was with you?

A I don't recall any.

Q You say that on the night that this assault was made, Walker, the attendant in the pool room, left the pool room with you? A Yes.

Q Where did you leave Walker? A In front of Eugene Brown's cafe, 80th street and Columbus avenue.

Q Where did he go? A I don't know where he went.

Q And you don't know whether he went up town or down town?

A No, sir, I do not, I didn't observe.

Q Would you say that he was in your company?

MR. TRAIN: He did say so.

937A
CASE 361

A I did say so.

BY MR. FITZGERALD:

Q Is that in answer to me or in answer to Mr Train?

MR. TRAIN: Objected to.

A In answer to you, Mr Fitzgerald.

BY MR. FITZGERALD:

Q Who invited Walker to go with you? A I don't know that he was invited.

Q He went along whether he was invited or not? A I think he did.

Q You never went along whether you were invited or not, anywheres; you always waited for an invitation, did you not?

A As a rule.

Q Now, tell us whom you saw -- let me ask you this way: Do you remember seeing a policeman and talking with him? A When?

Q Before you ~~xx~~ found Mr Carroll in the restaurant?

A Yes.

Q That is another circumstance that you did not remember on your direct examination? A I didn't state that I didn't remember it.

Q You did not state the circumstance. A I don't recall that I did.

Q You remember stating to all the saloon that you cried? A Yes.

Q What

937

19

Q What conversation did you have with this policeman?

A He made some remarks to the effect that there was a man in the Hartford lunch room talking about John B. Sexton. That was all the conversation I remember of having with this policeman

Q What did you say? A I said "Let us go up there."

Q You said "Let us go up there"? A Yes.

Q And you went up there? A We did.

Q And you found Carroll? A Yes.

Q How long did you remain in this lunch room? A I should say about twenty minutes or a half an hour, not more than that.

Q What did you say to Mr Carroll? A I don't remember what our conversation was.

Q What happened after that? A After what?

Q After you met you Carroll? A We remained in there some time.

Q You remained there for some time? A Yes, sir.

Q Well, you met Carroll? A We did meet Carroll.

Q Who introduced you on this occasion to Mr Carroll?

A I don't remember that I was introduced to him.

Q This was one of the occasions when you were not introduced? A Yes, sir.

Q Well, after you met Carroll where did you go with him?

A We left Hartford lunch room and went to the saloon of

1916

John Callan, on the northwest corner of 81st street and Amsterdam avenue. From there we went to the saloon of Witte & Schmidt at the southeast corner of 83rd street and Amsterdam avenue; and thence down either West 83rd or West 84th street to Columbus avenue and down Columbus avenue to the saloon of Edward Bowersmith at 424 Columbus avenue, at both of which places we failed to gain an entrance; and from there we went to the restaurant of Joseph Kennelly on the westerly side of Columbus avenue between 83rd and 84th streets.

Q You went in Kennelly's? A We went in Kennelly's.

Q What did you do? A Sat down at a table and had several rounds of drinks.

Q Then what happened? A During the conversation at Kennelly's I gave Mr Carroll a card on which was inscribed my name and address, for the purpose of future communication between Carroll and myself; and thence we went out upon the street.

Q Have you any of those cards with you? A Not that I know of; no, I have not.

Q What did it say on the card? A It said "Robert B. De Camp, 200 West 78th", or "200 West 78th street."

Q Did he read the card? A I think he did.

Q Did he take the card? A He took the card, yes.

Q And did he keep it? A He did; he put it in his

1937
CASE 77361

pocket; I don't remember whether he kept it or not.

Q Why did you give him your card? A Because he wished to have future communication with me.

Q You told him your proper name then, didn't you?

A I did.

Q What did he say when you told him you were a sergeant of police? A I don't remember making that statement.

Q Was it on your card that you were a sergeant of police?

A Not that I remember.

Q Now you say, when you were down in the pool room, that Hunsaker was in the game with the others and you were standing against the cigar counter, and that Hunsaker said to you "Let us get him out on the highway and turn him off"? A He did.

Q Is that the first time now that Hunsaker spoke to you? A That was the first time.

Q And what did you say to that? A I said "No, I don't think I would want to."

Q And what did he say? A He said "Yes, it is all right; we can do it;" or words to that effect.

Q No, what did he say? A I don't know his exact words. The substance of them was --

Q No, I don't want the substance. A Well, I don't remember his exact words.

Q You can't say it as he said it? A I don't think I

CASE 77361

9370

can, sir.

Q Didn't it make any impression on you? A Yes, it did.

Q Why can't you remember it? A I haven't any idea;
I don't remember.

Q And you remember the first part? A Yes.

Q "Let us take this man out on the highway and turn him
off"? A Yes, sir.

Q That is pretty distinct in your recollection? A Yes,
it is.

Q And your answer to that is also very distinct?
A Yes, sir.

Q But the next suggestion you don't remember? A I
remember the suggestion, but I don't remember its exact words.

Q What were the particular words that he used to make
you do this thing? A I don't remember the exact words.

Q You remember the words that did not make you do it;
you refused to do it when he first suggested it. Now, tell
me the words that he used when he convinced you that you should
do it? A I don't remember the exact words of that conversa-
tion.

Q That is another circumstance that you don't remember?
A I remember the substance, but not the exact words.

Q Tell us any words that he uttered. A I can only
give you the substance of the conversation, the intent of it.

9378

CASE # 361

Q You have the whole English dictionary at your use, now tell us any words that he uttered on that occasion. A I don't remember any exact words that he might have uttered.

Q You remember the substance? A I remember the substance of his conversation.

BY THE COURT:

Q The gist of the conversation? A That is it, your Honor.

BY MR. FITZGERALD:

Q A word to the wise was sufficient in your case?

A Not that I know.

Q Now Hunsaker spoke to Oscar Walker? A I don't remember his speaking to Oscar.

Q Didn't you swear a little while ago that he spoke to Oscar? A No, I did not.

Q Did he ask you to speak to Oscar? A He did.

Q What did he say? A He told me to tell Oscar to put the end of the billiard cue in my pocket.

Q Those words were his exact words? A That was the substance of his conversation.

Q I don't want the substance. A He told me to tell Oscar to do that. I don't say his words.

Q The jury will get at the substance; we want the exact words.

MR. TRAIN: He can't give them to you. There is

CASE 77361

no use trying to get them.

THE COURT: No; let the witness answer, and if you have anything to say address the Court.

A I don't remember his exact words.

BY MR. FITZGERALD:

Q Well, the cue was put in your pocket, do you say?

A Yes, it was put in my pocket.

Q You said that it was under the counter; under the cigar counter. A It was.

Q How did you know that? A Because that was the place for keeping it. I had seen it there.

Q When? A On several occasions before.

Q What were you doing behind the counter? A I was allowed to stand there.

Q Behind the counter? A Yes, behind the counter.

Q Did you ever take it in your hands before? A Not that I remember; I might have though.

Q Well, don't you know whether you ever handled that before? A Before the night of the assault?

Q Yes. A No; I don't remember exactly.

Q Is there anything that would help your memory on that point? A No; there is nothing

Q As to whether you ever had that in your hands before?

A No, I cannot.

193
361
CASE

Q You say that you saw a pistol in the cigar case; is that the place where it was? A That is the place where the pistol was.

Q And you described that pistol minutely, did you not?

A I did.

Q You remember that very well, do you not? A Yes, I do.

Q Why do you remember that so well? A I don't know; it is simply stating the condition of my memory.

Q You could describe that pistol now, could you not?

A Yes, I could.

Q And that was in the case? A Yes, sir.

Q Did you ever handle the pistol? A Possibly I may have; I don't remember.

Q You can't tell whether you ever had that pistol in your hands before or not? A No, I can't.

Q You are accustomed to handle fire arms, are you not?

A I have handled fire arms at times.

Q You carry fire arms, do you not? A I had a permit to.

Q When? A The permit expired last July, issued by the Police Department of the City of New York.

Q Last July? A It expired last July, yes.

Q Who gave you a permit to carry fire arms? A It was signed by William S. Devery, 1st Deputy Commissioner of

1967-361

15

Police.

Q Well, at the time that this occurrence took place you had no permit? A No, I did not.

Q And you had a permit for eight months before that? A No, I had not.

Q You say you saw a pistol in Oscar Walker's pocket? A Yes.

Q Where was his pocket? A On the inside of his waist coat.

Q Inside pocket? A Yes, inside pocket.

Q Do you mean his coat or vest? A His waistcoat -- his vest.

Q Was his vest open? A It was torn here under the arm (indicating).

Q Yes; and you saw through that? A I saw the butt of the revolver.

Q Did you ever see that revolver before? A Yes, I had seen it several times.

Q Where? A You mean that revolver on the table, Oscar Walker's revolver?

Q I am speaking of the one that was in his waistcoat. A He had showed it to me.

Q Where? A In the place of business of the defendant.

Q Did you ever see it in the cigar case? A Not that I

19

remember.

Q It never was in the cigar case that you remember? A
Not that I remember.

Q You were there very frequently? A Yes, sir.

Q And you never saw Oscar Walker's pistol on the cigar
case? A No, I never saw it that I remember.

Q Not that you remember? A Not that I remember.

Q Is your memory very good? A My memory is fairly good.

Q How many times did you strike Mr Carroll? A About
six or seven times.

Q Were you walking alongside of him before you struck him?
A Yes, I was.

Q How far did you walk with him before you struck him?
A About 125 or 150 feet from the corner of 79th street and
Columbus avenue, the northwest corner.

Q Did you speak to him during that walk? A I don't
remember.

Q Did he speak to you? A I don't remember.

Q In which pocket was the club with which you struck him?
A In the right hand inside pocket of my overcoat.

Q Why didn't you strike him before you got up around
79th street? A The idea was not suggested to me until--
before we were in Hunsaker's pool room.

Q How? A I say the idea of striking him was not suggest-

1937-361

ed to me before we were in Hunsaker's pool room.

Q And that is the reason that you did not strike him until you got around on 79th street? A Yes, that was the reason.

Q Now tell us when you got that idea to strike him around on 79th street? A It was what? I don't understand the question.

Q Why didn't you strike him before you walked around with him on 79th street 125 or 150 feet? A Because other streets we were on were more public.

Q The other streets were more public? A Yes; rather the avenue was more public.

Q Did you look to see if anyone was around before you struck him? A No, I did not.

Q Are you able to state that nobody saw you when you struck him? A I suppose the defendant and some one else might have seen me.

Q Who was some one else? A Possibly Clabby.

Q Why didn't you say Clabby; why did you say someone else? A I had no reason for not saying it.

Q You did not care if ~~you~~ they saw you strike him, did you? A I didn't care if the defendant saw me strike him, because he was a party in the action.

Q How do you know he was a party to the action? A Because he told me -- he got me to do it and agreed to take

198
361
CASE 77361

part in it.

Q He got you to do it? A Yes, sir.

Q You never would have done it if it had not been for his suggesting it to you? A No, I would not.

Q But you did not want Clabby to see it, did you?

A I didn't think of Clabby.

Q You didn't care whether he saw you do it or not?

A I had no thought of him at all.

Q You did not care? A I never considered the thing.

Q The young man slept with you the night before, did he not? A Slept in my house, yes.

Q Slept in your house? A Yes, sir.

Q And he was living at your house? A He was temporarily.

Q And he was not working anywhere, was he? A Not that I know of.

Q You would be a little ashamed to have him see you strike a man, would you not? A I don't know whether I would or not.

Q Which hand did you strike him with? A The right hand.

Q Did you pull his hat off first? A I knocked his hat off.

Q Which hand did you knock his hat off with? A The left hand.

Q Were you walking side by side with him? A When?

Q Before you struck him? A Yes.

Q And then how did you happen to strike him; did you step back? A I stepped back from him.

Q And you knocked off his hat with your left hand?

A Yes, sir.

Q And then struck him with that club on the back of his head? A I struck him on the head; I don't remember whether the first blow was on the back or elsewhere.

Q What did he say? A He said "What have I done?"

Q What did you say? A I said nothing.

Q Didn't make a sound? A No.

Q Or did you say he had done nothing? A I said nothing.

Q What did you do? A I struck him again.

Q What did he say then? A I don't remember that he said anything.

Q What was your idea in striking him? A To knock him unconscious.

Q You had that fixed purpose? A Yes.

Q How many blows did you strike him? A About six or seven.

Q Where; all on the head? A All on the head.

Q With that club? A With that club.

Q Did you strike him hard? A As hard as I could.

Q As hard as you could? A Yes, sir.

Q Did he bleed? A Yes, he did.

Q Did he bleed much? A I don't know; I didn't see; it was dark.

Q Did he say to you "Sergeant, for God's sake take all I have, but don't kill me !"? A I didn't hear him say that.

Q Did you hear him say anything like that? A No, I didn't.

Q What did you hear him say? A I only heard him make one statement, when I first struck him on the head, when he said "What have I done?".

Q Well, how many blows -- oh, you say you gave him six or seven blows? A Six or seven blows.

Q Six or seven? A Yes, sir.

Q What kind of a night was this? A It was a clear night, no storms of any kind.

Q You were afraid of being observed? A On Columbus avenue, yes.

Q When he was down on the ground what was the first thing you took away from him? A The watch and chain and pencil.

Q How did you take them? A Grabbed them.
Then

Q what did you do? A Took one cuff stud from one of --
from the cuff on one hand.

Q Who took the other cuff stud? A I don't know. I

61

presume the defendant did.

Q That is your best presumption? A That is my best presumption.

Q Don't you know whethehe did or not? A I don't know how -- I never saw the other stud.

Q What else did you take? A That was all.

Q Did you go and and put your hands in his pockets?
A I did not.

Q Didn't you take his money? A I did not.

Q Why not? A Never thought of it.

Q You never thought of the money? A No.

Q Did you observe this ring on his finger during the evening? A I don't remember having observed it.

Q It is a diamond ring, is it not? A Yes, sir; a ring set with diamonds.

Q With three diamonds in it? A Yes, sir.

Q And you don't remember seeing that? A I don't remember whether I observed it or not. I might have seen it.

Q Well, if you took his cuffs and his watch, what was there left for anybody else to take -- A I didn't take his cuffs.

Q His cuff botton? A Why, there must have been that ring.

Q You did not take the ring? A No, I didn't take the ring.

1937
CASE # 361

Q When did you first see the ring? A To the best of my recollection I first saw the ring when the defendant handed it to me.

Q Where was that? A Under a lamp post.

Q Where is the lamp post? A On the street.

Q A lamp post on the street? A On the street, yes, between property lines.

Q Is that your best recollection? A Is what my best recollection?

Q Can't you remember where the lamp post was? A The lamp post was in the street, yes.

Q Whereabouts in the street? A On the sidewalk near the gutter line.

Q Well, he gave you the ring? A The defendant?

Q Yes. A Yes, sir; the defendant gave me the ring.

Q And did you take the ring from him? A I took the ring from him.

Q And what did he say when he gave you the ring? A He said "This is your share of the ring. I have the center stone. I want the same to make a ring for my wife."

Q He told you that he wanted that center stone to make a ring for his wife? A He did.

Q You say that Clabby was there all the time? A Was where?

Q On the corner, where you were striking this man?

A I saw Clabby on the corner while I was striking him.

Q If you were striking the man over the head with that club how much time did you have to recognize Clabby? A I turned once during the assault.

Q You turned once during the assault? A Oh, yes.

Q Did you turn as if on your hands? A No, I did not.

Q How far was this assault being committed from Clabby?

A I should think it was about 100 feet.

Q And you turned around in the middle of ~~it~~ the business of assaulting this man and recognized Clabby? A I turned around and I recognized Clabby standing up a hundred feet away.

Q Did you speak to him? A No.

Q Did he speak to you? A When; at what time?

BY THE COURT:

Q At this time.

A No.

BY MR. FITZGERALD:

Q At that time? A No, he did not.

Q How many blows had you struck before you saw him?

A I don't remember, I suppose three or four.

Q You stated on your direct examination that you struck six or seven blows and that then the defendant struck him with

11
93911

CASE 361

the pistol? A He did.

Q What did he say when he struck him with the pistol?

A What did who say; the complainant?

Q Yes. A He didn't say anything that I remember.

Q Never said a word? A He groaned; but didn't say anything.

Q Then he fell to the ground? A Yes, he fell to the ground.

Q What was done with the pistol? A I didn't see.

Q You say that he held it in his hand and struck him with the butt end of it? A He did.

Q And you didn't see what became of the pistol? A I did not.

Q How do you know it was a pistol? A Because I saw it.

Q Did you see the whole of it? A I saw the whole pistol, yes, except such portions as were covered by his hand.

Q Where on the head did he strike him with that pistol?

A I don't know; somewhere about the back of the head -- the back or top of the head.

Q Well, when he struck him with the pistol he did not interrupt your good work, did he? A I didn't strike Carroll after the defendant struck him with a pistol.

Q You were striking him before that, were you not? A I was.

0302

19

Q And he did interrupt you, didn't he, when he struck Carroll and knocked him out? A He helped me; he didn't interrupt me, he helped me.

Q Which way did he come towards you? A He came from Columbus avenue.

Q Did he walk or fly or run or what? A I didn't see him coming.

Q Was he there before you knew it? A He came up from my ~~back~~ side.

Q What? A He came to my side. I knew when he was there.

Q Which side? A One side or the other; I don't remember.

Q Don't remember? A No, I don't remember.

Q You stated in your direct examination that after he gave you the ring and the diamond was out that you walked down as far as 74th or 75th or 76th street? A Yes, I walked down that far.

Q Why can't you tell which street? A I don't remember; all of those streets look very much alike and I didn't observe the lamp posts that night.

Q Didn't observe what? A The signs on the lamp posts that night.

Q Didn't observe the signs on the lamp posts? A No.

Q Do you usually observe the signs on the lamp posts?

1937-38
CASE 7-361

A I do if I am going to any particular place or any particular street.

Q This was an oversight, then, on your part? A Yes.

Q Wasn't that stick bloody when you looked at it before you put it in your pocket on Eighth avenue? A I put the stick in my pocket --

Q Are you answering my question? A I don't know whether the stick was bloody or not on Eighth avenue.

Q Why don't you know whether it was? A Because it was dark and I didn't see.

Q You were under the lamp post, were you not? A Not when I looked at the stick.

Q Didn't you look at the stick under this particular lamp post that is somewhere on the street near the curb stone? A No, I did not.

Q When did you first look at the stick? A Somewhere on Central Park West.

Q And can't you say whether it was bloody or not? A No, I can't say.

Q You put it in your pocket? A I did.

Q Did you take it out afterwards? A I took it out when I got home.

Q Where? A In my room.

Q Was that the first time? A No; I had taken it out

1961

once on Central Park West.

Q Between the time you put it in your pocket on Central Park West -- you observed no blood on it then, did you?

A No, I did not.

Q Between the time you put it in your pocket on Central Park West and the time you took it out and looked at it then, it was in your pocket? A It was in my pocket.

Q Was there blood in your pocket? A I didn't look to see.

Q Where was the blood on your clothes? A The blood was on my arms, some on the front and there was one mark of blood on the inside of the coat near the pocket.

Q How much blood? A That was quite a piece of blood -- a stain of blood I should say about 4 by 3 inches.

Q Where was that? On the inside of my coat, on the linen lining of the coat.

Q How could that stain of blood get on the inside of your coat on the lining near the pocket? A I presume it must have come from the cue.

Q Did you have no other blood stains on you? A I had blood stains on my arms.

Q And none on the front of your coat? A Yes; there were one or two marks on the front of my coat, I believe.

Q Were there any on your collar or hat? A No, sir.

CASE #361

But there were one or two stains on the front of your coat?

A Might have been more than one or two.

Q Don't you know? A I didn't count them.

Q Can't you describe to us how much blood was on your clothes? A Quite a few stains on my arms and some on the front of the coat, which I cleaned.

Q How far did they extend on your coat? A Not below the waist line.

Q Not below the waist line? A To the best of my recollection.

Q You say it was between four and five o'clock when you got home that morning? A I think that was the hour.

Q Where had you been all that time, from the time that assault took place, until you got home? A The assault did not take place till shortly before that.

Q About what time? A I should say about four o'clock.

Q How long were you in the pool room? A About a half an hour or so.

Q What time did you go to the pool room? A I don't remember the hour. I think it was considerably after two o'clock.

Q How long have you known Jim Shannon? A Since about the 1st of February, 1903.

Q Of this year? A Yes, this year.

CASE 77361

Q And what time did he come to see you on the morning of the 4th? A About 9 o'clock.

Q And what did he say to you when he saw you? A He said the police had been to the house of the defendant and that the defendant had told the police that he knew nothing about the affair, and that Clabby and I should make the same statement.

Q Did he say anything about the jewelry? A He didn't make any statement about the jewelry.

Q Is that all the statement that he made? A No;; it is not all the statement that he made.

Q Tell us what he said. A After I gave him the jewelry he asked for the cue.

Q When he told you that the police were aware of this matter and that you and Clabby should do what? A Should make the same statement that Hunsaker had made.

Q And what did you say? A I don't remember exactly what my conversation was that followed that. He also told me that Coleman --

Q You remember that very distinctly? A Yes, I remember that.

Q Can't you remember anything else? A He also made a statement that Coleman was down stairs.

Q What else did he say? A After I gave him the jewelry he asked for the club, or for the end of the cue.

0397

CASE #361

Q He asked for the club? A For the end of the cue.

Q What did he say? A He said "Let me have the end of the cue and I will take it out with me."

Q James Shannon was not with you that night, was he?

A No, he was not.

Q When he went out did he have the cue in his possession?

A Out of my house? No.

Q Didn't you let him have the cue? A I didn't give it to him.

Q You gave him the jewelry? A I did.

Q Why did you deny him the privilege of taking the cue?

A Because I couldn't find the cue at that time.

Q Where was it? A I afterwards found it under the cover of the lounge on the floor.

Q You got up and went out with him, did you not? A He went out ahead of me if I remember correctly.

Q And after he went out you followed him? A I found the cue after he went out.

Q Did you follow him? A No, not immediately.

Q How long after? A Probably ten or fifteen or twenty minutes.

Q Ten or fifteen minutes? A Possibly longer.

Q And when you got out where was he? A He was standing talking to Coleman.

CASE # 361

Q Where? A At the front entrance of the house in which I live.

Q What were you doing all that time; were you in bed when he called? A No, I was not.

Q Were you dressed? A I was.

Q What were you doing ten or fifteen or twenty minutes, possibly half an hour? A I think I was talking to my mother.

Q Do you know Coleman? A I know Coleman, yes.

Q You were talking to your mother? A Yes, sir.

Q You have got some oxalic acid, haven't you? A I have some oxalic acid, yes -- I had some at the time of the assault.

Q Where did you have it? A In the house.

Q Where? A In a bottle in the bath room.

Q Bottle in the bath room? A Yes, sir.

Q Did you take your coat into the bath room? A No; I brought the bottle into my bed room.

Q And what did you do then? A Cleaned my coat, and wiped off the cue.

Q Cleaned up generally? A Yes.

Q Which did you clean first, the cue or your coat?

A If I remember correctly I cleaned my coat first.

Q Did the cue lay there all the time? A Yes, sir.

Q Did Clabby have any blood on him? A No.

Q He did not need to use any oxalic acid, did he?

198-361
CASE #361

A No, he did not.

Q Now have you related all the conversation that you had with James Shannon at that time? A Yes.

Q When you gave him the jewelry, what pieces did you give him? A I gave him him the watch and chain, the pencil, the broken ring and the one stud with the diamond.

Q When he asked about the cue you refused to give him the sue, did you not? A I didn't refuse, I didn't give it to him because I couldn't find it.

Q Did you look for it after he was gone? A I looked for it after he had gone.

Q And you found it where? A Underneath the cover of a lounge lying on the floor.

Q It was lying on the floor and the cover of a lounge was over it? A Yes, sir.

Q How did it get there? A I must have put it there the previous evening and forgot that I had done so.

Q Did you wash any blood off the cover of the lounge? A No, sir.

Q Did you wash any off the floor? A No.

Q Did you tell Jimmie Shannon that you had found the cue? A No, I did not.

Q How did Jimmie Shannon know that you carried home the cue that night? A I don't know, I suppose the defendant.

CASE 77361

must have told him about the assault.

Q I am asking what you know, and not what you suppose.
I move to strike out, if your Honor please, his supposition.

THE COURT: Yes, strike it out.

BY MR. FITZGERALD:

Q How did Jimmie Shannon know that you carried that cue home that night? A I don't know how he knew it.

Q How did Kunsaker know that you carried home the cue that night? A I don't know that he knew that I carried it home. I know that he saw me put it in my pocket.

Q And you don't know that he knew that you carried it home? A No, I don't know that.

Q There was no agreement between you on that point?
A No.

Q He didn't suggest to you to take it home, did he?
A No, he did not.

Q He did not tell you to take it home and clean it with oxalic acid, did he? A No.

Q Or to hide it behind the book case? A No, he did not.

Q How did you come to have all the jewelry? A I had taken the watch and chain and the pencil and stud, and the ring was given to me by Hunsaker.

Q How did you come to take it all home with you? A He gave me the ring.

CASE 77361

Q He gave you the ring; we know that. I am asking you how ~~he~~ you came to take it all home? How did they come to let you hold the property? A I don't know. I simply had it.

Q How? A There was no agreement on that.

Q It was by mutual consent that you held the property?

A Yes, sir.

Q And did you demand the ring when you saw it? A No, I did not demand it.

Q You did not take the ring off this man's finger?

A No, I did not take the ring off this man's finger..

Q And you didn't have anything to do with his fingers?

A Nothing to do with his fingers whatsoever.

Q Did you ask Jimmie Shannon how he knew that you had that cue? A No, I didn't ask him.

Q You said in your direct examination, if I have it here correctly: "Jimmie Shannon spoke of the police were after him. of it He asked about the cue without any mention, being made by me." Is that your presumption? A That is the statement I made.

Q How do you remember so distinctly that when Jimmie Shannon came to your house that day he spoke of the cue before you made any mention of the cue; how do you account for your recollection on that point being so clear? A Only know that that is my recollection.

CASE # 361

Q And your recollection is clear on that? A Yes, it is very clear on that subject.

Q You thought he should have waited until you spoke about the cue first, did you not? A Unless he knew something about it.

Q Well, you thought it was up to you to speak about the cue first? A Not necessarily.

Q Didn't he say that Walter Hansaker had sent him to you? A Yes, he said so.

Q To tell you that the police were aware of this matter? A He said that Hunsaker had sent him to me to tell me that "The police are after us."

Q Yes; and within ten or fifteen or twenty minutes, or half an hour, to use your own words, after he told you the police were after you you deliberately walked down to meet a man whom you knew to be a policeman? A I did.

Q Well, didn't pay much attention to the warning you received? A I remembered what he had said.

Q You knew that Coleman was a policeman? A I did.

Q What did you say when you first met Coleman? A I think I said "Good morning" to him.

Q What did he say? A He said "The Captain wants to see you." He said he had no knowledge of the affair, what it was about.

198-77-361

that you did not tell him all? A No, I don't remember testifying that.

Q You remember being examined by Mr Train a short time ago? A I do.

Q Didn't you tell Mr Train, in answer to his question, that when Captain Kear and you were talking in the Captain's room, that you did not tell him all? A I did not have any conversation with Captain Kear about the facts in the case in his private room.

Q No, not about the facts in the case? A No.

Q What was it; a philosophical dissertation on the case? A He asked me about some facts in the case.

Q What is there now that you remember that you did not tell to Captain Kear? A When?

Q At any time. A There is nothing that I have given here in court as testimony that I don't remember of having told to Captain Kear sometime.

Q How many conversations did you have with Captain Kear? A One or two.

Q Did you have one or two? A I think I had two conversations with Captain Kear.

Q Don't you know? A To the best of my recollection I had two.

Q Don't you know? A No, I don't remember.

1961-7-23

that you did not tell him all? A No, I don't remember testifying that.

Q You remember being examined by Mr Train a short time ago? A I do.

Q Didn't you tell Mr Train, in answer to his question, that when Captain Kear and you were talking in the Captain's room, that you did not tell him all? A I did not have any conversation with Captain Kear about the facts in the case in his private room.

Q No, not about the facts in the case? A No.

Q What was it; a philosophical dissertation on the case? A He asked me about some facts in the case.

Q What is there now that you remember that you did not tell to Captain Kear? A When?

Q At any time. A There is nothing that I have given here in court as testimony that I don't remember of having told to Captain Kear sometime.

Q How many conversations did you have with Captain Kear? A One or two.

Q Did you have one or two? A I think I had two conversations with Captain Kear.

Q Don't you know? A To the best of my recollection I had two.

Q Don't you know? A No, I don't remember.

CASE 77361

that you did not tell him all? A No, I don't remember testifying that.

Q You remember being examined by Mr Train a short time ago? A I do.

Q Didn't you tell Mr Train, in answer to his question, that when Captain Kear and you were talking in the Captain's room, that you did not tell him all? A I did not have any conversation with Captain Kear about the facts in the case in his private room.

Q No, not about the facts in the case? A No.

Q What was it; a philosophical dissertation on the case?

A He asked me about some facts in the case.

Q What is there now that you remember that you did not tell to Captain Kear? A When?

Q At any time. A There is nothing that I have given here in court as testimony that I don't remember of having told to Captain Kear sometime.

Q How many conversations did you have with Captain Kear? A One or two.

Q Did you have one or two? A I think I had two conversations with Captain Kear.

Q Don't you know? A To the best of my recollection I had two.

Q Don't you know? A No, I don't remember.

CASE 361

Q You say that Mr Hunsaker told you that he had influence with the police? A Yes, sir, he did.

Q Did he mention any police officer with whom he was influential? A He did.

Q And whom did he say he was so influential with on the police force, and ~~and~~ who was himself so influential and friendly to him that such service would be valuable? A John Cleary, an officer of the 26th precinct.

Q That is the same John Cleary that testified here on the stand? A I don't know whether he testified here or not, sir.

Q It is the same John Cleary, of the 26th precinct? A That is the same John Cleary.

Q You say that he offered you five hundred dollars if you would help him in this matter? A He did.

Q Did you consider that enough? A I didn't consider any amount enough.

Q No amount of money could swerve you from the truth? A No.

Q Then or now or at any other time? A At no time whatsoever.

Q Is that one of your principal characteristics, the truth? A It is.

Q You are very proud of your truthful record? A I am.

CASE # 361

Q Where did you work last? A At George Nicholas's ,
at 567 Fifth avenue and 2383 Broadway.

Q When did you work there? A I left there last June.

Q How long were you in the employ of the Nicholas concern?

A Several months.

Q Oh, now, how long? A Four months.

Q Four months? A Four months, yes.

Q Are you sure of that? A I am sure of that.

Q When did you go to work there? A About the 1st
of February, 1902.

Q The 1st of February, 1902? A Yes.

Q And you worked four months there? A Yes, sir.

Q That was to the 1st of June, 1902? A Then I left.

Q You left when? A The 1st of June.

Q That is what I wanted. I thought it was 1903.

A No; I said 1902.

Q Did you have a revolver that night? A I did.

Q Where did you have it? A In my pocket.

Q In your pocket? A My hip pocket, if I remember correct-
ly.

Q In your hip pocket? A Yes.

Q Did you threaten Clabby that you would shoot him or
kill him -- A I don't remember having --

Q --if he made any mention of this matter? A I don't

CASE 72361

remember having threatened anyone.

Q Did you threaten anybody? A I don't remember having threatened anyone.

Q Don't you remember? A I don't remember.

Q Your recollection is not very clear on that? A It is not.

Q You would not -- you don't think that you would desire to be found out in such a matter, in such a crime? A If I had made such a remark I would admit it; if I remembered making such a remark I would admit it.

Q Were you not afraid of being detected or discovered? A Not at that time.

Q Not at that time? A Not on the evening of the assault.

Q You were not afraid of any police officer becoming aware of this matter? A Not at that time.

Q Did it not occur to you that it would be a good thing to protect yourself by preventing anybody giving information, did it? A No, it did not.

Q You were on the streets of New York, a short distance from your own home, and it did not occur to you that you might be discovered? A It did not.

Q ~~Now you told me~~ When did it first occur to you that you might be discovered as being connected with this matter?

A When James Shannon informed me that Husaker has sent him to

CASE 77361

tell me that the police had been to Hunsaker's.

Q That was the first intimation that you had? A That was the first intimation I had.

Q What did Clabby say, anything? A When?

Q ~~When?~~ At that time? A When James Shannon made that statement?

Q Yes. A Not that I remember.

Q Can you tell me all the statements that Shannon made?

A Shannon said that Hunsaker had sent him to tell me that the police had been to Hunsaker's house.

Q Is that all? A And that Hunsaker had told the police that he knew nothing about it, and that Clabby and I were to make the same statement.

Q What did Clabby say to that? A I don't remember Clabby's having made any reply to that remark.

Q When you were asked to testify in this case, and before you made any statement to the District Attorney, were you told that the penalty prescribed by law for this offense was twenty years imprisonment? A I knew that was the maximum penalty.

Q You knew that? A Yes.

THE COURT: Have you any further questions?

MR TRAIN: I have nothing more.

THE COURT: (To defendant's-counsel) Have you any

CASE 77-361

further witnesses?

MR. FITZGERALD: No further testimony.

THE COURT: And have you, Mr Train, any further testimony?

M R. TRAIN: That is all.

THE COURT: Then, gentlemen, we will take the usual recess after I have admonished the jury, until 2 o'clock. The afternoon session will allow one hour's time to each of you. The Court then will arrive at the usual time and I ~~will~~ will submit the case to the jury in the morning. That will give you one hour each. Gentlemen, I admonish you not to converse among yourselves, nor to permit anyone to talk with you about this case, and not to form or express any opinion about it until the case shall be finally be submitted to you.

RECESS UNTIL 2 P. M.

AFTER RECESS.

Mr. Fitzgerald summed up the case on behalf of the defence.

Mr. Train summed up the case on behalf of the People.

The Court admonished the jury.

April 23, 1902.

The Court charged the jury, who found the defendant guilty of robbery in the first degree.

CASE 361