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**CASE # 1650**

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

-----X  
T H E P E O P L E

-vs-

DANIEL O'LEARY.  
-----X

:  
:  
: Before:

: HON. JAMES T. MALONE, J.,

: and a Jury.  
: X

#1839

Tried, New York, December 20th, 1912.

Indicted for Murder in the first degree.

Indictment filed October 25th, 1912.

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

ASSISTANT DISTRICT ATTORNEYS JAMES O'MALLEY and

MORRIS KOENIG, for the People.

JAMES D. McCLELLAND, ESQ., and GEORGE SIMPSON, ESQ.,

for the Defense.

TRANSCRIPT OF STENOGRAPHER'S MINUTES.

Frank S. Beard,  
Official Stenographer.

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(A jury was empaneled and sworn).

MR. SIMPSON: Now, before the District Attorney addresses the jury in the opening here, I ask your Honor to be good enough to order that all witnesses on both sides be excluded from the courtroom.

MR. O'MALLEY: I join in that request, your Honor.

THE COURT: Yes, all witnesses on both sides will retire.

MR. MCCLELLAND: That does not apply to the medical men, of course.

MR. SIMPSON: No, sir. No, your Honor, not Dr. Lehane. I don't ask for his exclusion.

THE COURT: Very well, then. All the other witnesses will retire.

OPENING ADDRESS FOR THE PEOPLE

of

ASSISTANT DISTRICT ATTORNEY JAMES O'MALLEY.

May it please your Honor:

Mr. Foreman and each of you gentlemen of the jury:

Now, this defendant, as you know, is charged with the crime of murder in its first degree. That is a very serious crime, and it warrants the earnest and

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conscientious attention and endeavor of each and every one of you, as well as the counsel on both sides.

It is very important, of course, to a defendant charged with a crime of this kind that, if he is innocent of it, he should be acquitted. On the other hand, it is of great importance to the People of the State of New York that, if the crime that he is charged with, has been committed, he ought to be punished, in order that the law may be vindicated, and peace and order and the safety of the citizens may be maintained in our public streets.

He is charged with having shot the deceased, Michael Collins, on the evening of July 8th, 1912, in the neighborhood of 52nd Street and Eleventh Avenue.

I am going to state very briefly the outline of facts that the People expect to prove, and which they believe will warrant you gentlemen in finding the defendant guilty.

The defendant was employed in a saloon on Eleventh Avenue, just north of 52nd Street. He knew the deceased, Collins, and I think Collins used to go into the saloon, from time to time.

Collins, I will be very frank to say to you, was

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a man, I think, who drank a good deal, and used to hang around that place. I do not know whether he had any steady employment or not, but, at all events on Saturday evening, July 6th, Collins came into the saloon, and there was some question about serving him with drinks, as the result of which Collins and the defendant became engaged in a fist fight, and the defendant at that time injured one of his hands.

I think there is some evidence to the effect that they met on the following day, and that certain words passed between them. That was Sunday.

On Monday evening, about eight o'clock, the deceased, Collins, was in the neighborhood of Eleventh Avenue and 52nd Street, on the north side of the street, with some friends. The defendant, in company with another man, came down the street, and, as the result of the two parties meeting, some words followed, and, I think, a fight resulted.

Two disinterested witnesses, whom we shall call to the stand here, will tell you that they had walked down the street from Tenth Avenue towards Eleventh Avenue. They are young girls, 16 years of age, and they live with their parents in that neighborhood, and they are working girls, and I feel confident that,

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when you see them on the stand, you will decide that they are worthy of credence.

They say that they passed on the northerly side of the street towards Eleventh Avenue, and that, at that time, the crowd of men was arguing.

Then they passed along down to Eleventh Avenue, and, when they got to the corner, the northeasterly corner, of Eleventh Avenue, they heard screams in back of them, and they ran to the southerly side of the street, and took a position upon the stoop of a house there, one or two steps up; and, when they got there, they looked across the street, and they say they saw the deceased Collins crouching down on the stoop of a high stoop house, directly opposite them, and that at that time the defendant O'Leary stood there on the sidewalk and was pointing a revolver directly at him as he crouched there, and they saw him fire five shots at Collins.

One of these witnesses knew O'Leary at the time, had seen him around the neighborhood but did not know his name, and the other witness had also known him.

At that time, according to the People's evidence, the defendant wore a white bandage on his hand, his left hand, I think it was.

These witnesses say that, after he fired the shots,

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he put the gun into his right hand pocket, and went towards Eleventh Avenue.

The deceased lay on the sidewalk for a few minutes, but finally got up, and a crowd of his friends escorted him down to Tenth Avenue, and up Tenth Avenue until finally he was in such a condition that he could not walk, and was put in a grocer's cart, and taken to Roosevelt Hospital.

These two girls, these witnesses, followed along, and, when they got to the hospital, police officers had arrived there, and they had certain conversation with the officers, and saw the deceased there, with the result that an investigation was begun, with a view of locating the defendant.

MR. McCLELLAND: Pardon me, Mr. O'Malley, but at what hour did you say that was?

MR. O'MALLEY: About eight o'clock in the evening.

Three or four officers came to the hospital, that night, and saw the deceased, and talked with him, -- of course, we cannot introduce what was said between them, because the defendant was not present --- and the name of the defendant was learned that night, as I understand it, and they began an investigation.

MR. McCLELLAND: That is objectionable, your Honor.

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MR. SIMPSON: It is clearly objectionable. I object to that statement of the District Attorney in the presence of the jury, that the name of the defendant was learned, that night, and it carries with it the effect of stating to the jury what occurred, on that night, in the hospital.

MR. O'MALLEY: No, I will say now that I have no intention of stating or even intimating what the deceased said that night in the hospital, and I withdraw that statement.

And the officers, gentlemen, went to various places in the neighborhood, where they had learned that the defendant lived, or had lived, and, also, from time to time, I believe they went to the saloon where he was employed.

Later on, other officers were assigned to the case, who went to other addresses, with the result, however, that the defendant was not located until late in July.

At that time, one of the officers, who was working on the case, came in contact with a man, as a result of which the defendant, after three weeks, voluntarily met the officers in the saloon, and he was placed under arrest.

He was then taken to the station house, and these two witnesses were sent for, and a line-up was held

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of eight or ten or twelve men, I do not remember which, and the defendant was put in the line, and these witnesses were brought in.

Catherine Connors, one of these witnesses, picked the defendant out, and the other girl was uncertain, and did not identify the defendant.

These, gentlemen, are briefly the facts upon which we rely.

The deceased, as I have already said to you, had this fight with the defendant. There was a motive on the part of the defendant to get even with the deceased. The trouble was renewed when they came together on the street, that night, and the defendant was positively seen to shoot at the deceased, as he was there in that crouching position on the steps of this house.

An autopsy was performed upon the deceased, who died, I think, a few days afterwards. The autopsy showed that he had sustained a gunshot wound of the abdomen, and the doctors will take the stand and will tell you that that wound was the cause of death.

Now, the law of the case, of course, will be given to you by the Court.

Murder in the first degree, I may say to you, simply for the purpose of enabling you to understand

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this evidence as it is presented to you, is the killing of a human being, where there is no legal justification or excuse, and where there is a premeditated and deliberate design to effect death. In other words, there are two elements of the crime. There is the intent to kill, and the deliberation and premeditation that must precede the killing.

In murder in the second degree, the elements of premeditation and deliberation are absent. There is simply an intent to kill. And, in considering this evidence, it is for you gentlemen to say, if you believe what the People's witnesses say, that the defendant did shoot the deceased, and did point a loaded revolver at him, when he was only a few feet away from him, and fire several shots at him, what his intent in doing that act was.

The importance of this case, gentlemen, as you see, is great, both to the defendant and to the People.

As I said to you, at the outset, if this defendant is innocent of this crime, he ought to be acquitted; and if, on the other hand, he is guilty of it, he ought to be punished, because no good citizen will say that an act of that kind, of rowdyism, of carrying a firearm in our streets and of shooting, ought not to

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be permitted; and so let us all give our earnest attention to this case, for the purpose of seeing if we can arrive at a just and true conclusion in this case.

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## THE PEOPLE'S TESTIMONY.

TIMOTHY D. LEHANE, Coroner's Physician, a witness called on behalf of the People, being duly sworn, testified as follows:

## DIRECT EXAMINATION BY MR. O'MALLEY:

Q You are a practising physician and surgeon, are you?

A I am.

Q And one of the Coroner's Physicians of the County of New York? A I am.

Q And how long have you been attached to the Coroner's office? A Between nine and ten years.

Q And during that time have you performed numerous autopsies for the purpose of ascertaining the causes of death? A I have.

Q Where death has been caused by various means?

A Yes, sir.

Q Including pistol shot wounds? A Yes, sir.

Q And, approximately, Doctor, how many autopsies have you performed a year? A I haven't kept notes of them, and therefore can't say.

MR. SIMPSON: We will concede that the doctor is qualified as an expert.

MR. O'MALLEY: Thank you.

BY MR. O'MALLEY:

Q Now, did you, on the 18th day of July --- did you at

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any time perform an autopsy upon the dead body of one Michael Collins? A I did.

Q On what date? A In my opinion, about the 12th of July.

Q Please refer to that memorandum, and see if it refreshes your recollection. A On the 12th day of July, at 11:30 A. M., 1912, at the Morgue attached to Roosevelt Hospital, in the City and County of New York, Borough of Manhattan, located at 39th Street and Tenth Avenue.

Q Did anybody identify that body to you, there? A One officer, Charles S. Brown, of the 26th Precinct.

Q Yes, and he came there to the Morgue in the Roosevelt Hospital, did he? A Yes, sir.

Q Now, will you tell the jury what you did with that body, so far as the autopsy was concerned? A After the examination, and after locating a pistol shot wound on the right side of the lower quadrant of the abdomen, about four and a half inches upwards, and a little to the right of the mid-axillary line, about there (indicating), I found a bullet wound extending directly backwards.

Upon making my incision on the anterior surface of the body, clean all the ways down, and noticing the hemorrhage in the abdominal cavity, I traced the wound, going through the lower lobe of the liver, and into the muscles.

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of the back.

Q Yes. A I found the deceased came to his death from septicemia, or otherwise blood poisoning, resulting from pistol shots of the abdomen.

Q Now, Doctor, describe the appearance of the body of the deceased. A The deceased was about five foot three, muscular, well nourished and built, and he was in the neighborhood of 150 pounds, smooth face, bluish-gray eyes, a good set of teeth and brownish hair.

Q And, as far as the other organs of the body were concerned, Doctor, what did you find, if anything?

A The other organs were otherwise normal, with the exception that the autopsy showed that ~~the~~ the defendant had been a drinker, an alcoholic.

Q And you say, in your opinion, the cause of death was blood poisoning, resulting from a pistol shot wound of the abdomen? A Yes, sir.

CROSS EXAMINATION BY MR. SIMPSON:

Q Doctor, was there ever an inquest held in this case in the Coroner's Court? A I am unable to answer that question, counselor.

Q Did you ever testify at any inquest, wherein the question of the death of Michael Collins was the subject of the inquest, before a coroner and a jury? A Not in my

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recollection. My notes were transcribed and presented at the inquest.

Q Your what? A My notes, which were made at the time, were turned in with the papers, to the Coroner's office, and upon a date in August they referred to my notes.

Q Do you --- would you say now, of your own knowledge, that there was an inquest held at the Coroner's Court <sup>in</sup> of this case? A I couldn't say.

Q Would your papers show that there was an ~~in~~ inquest held? A There is evidence here, signed by one Coroner, Herman Hellenstein, stating that, "There being sufficient evidence to find the within named guilty of the offense charged within, I order him held for the Grand Jury."

MR. SIMPSON: I move to strike out the answer of the witness, and that the jurors be told to disregard it, on the ground that it is incompetent.

THE COURT: Let us see if it is responsive.

MR. O'MALLEY: I think it is responsive, your Honor. He was asked if his papers showed it.

BY THE COURT:

Q Well, can you answer that question, Doctor? A I find, by looking over my papers now, that there was no inquest held.

BY MR. SIMPSON:

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Q And isn't it an unusual practise to commit a defendant, charged with homicide --- I withdraw that question, and I will frame it in this way. Isn't it necessary, in a case involving death by shooting, to hold an inquest?

MR. O'MALLEY: I object to it.

THE COURT: Sustained.

MR. SIMPSON: Exception. That's all, Doctor.

MR. O'MALLEY: That's all, Doctor.

MR. SIMPSON: I ask your Honor ~~to~~ strike out my former motion, that the jurors be directed to disregard the statement of the witness, Doctor Lehane, as regards what appears or purports to be a statement by Coroner Hellenstein.

THE COURT: What do you mean? Do you ask me to strike out your motion?

MR. SIMPSON: No, sir. I mean to strike out the doctor's answer to my question, and the jurors be instructed to disregard it.

THE COURT: Yes, that will be granted.

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WARREN HILDRETH, of the Roosevelt Hospital,  
a witness called on behalf of the People, being duly  
sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q Dr. Hildreth, you are a practising physician and  
surgeon? A Yes, sir.

Q And were you, on the 8th of July of the present  
year, attached to the Roosevelt Hospital? A I was.

Q In what capacity, Doctor? A As House Surgeon.

Q As House Surgeon? A Yes, sir.

Q In that capacity, what do you do? Do you have charge  
of the surgical ward? A I have charge of the second surgical  
division.

Q Of the hospital? A Yes, sir.

Q Now, do you remember, on the evening of July 8th last,  
a man named Michael Collins being brought there? A I do.

Q And did you see him after he was brought there?

A I did.

Q And will you tell the jury, please, what, if anything,  
you did for him, or was done for him? A I was called to the  
accident room, and there found him with the wound, as has  
been before described, and he was taken into the surgical  
ward, and I called up Dr. Dowd, who is the Attending Surgeon,  
and he came immediately, came down to the hospital, and  
within an hour or an hour and a half he was taken to the

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operating room and operated on. And, at that time, we made an incision in the upper right part of the abdomen.

Q Yes. A And we found a little blood in the abdominal cavity, and a wound through the liver, and a bruise on the large intestine.

Q Yes. A And a track leading down behind the intestines, where the bullet had evidently gone. We found no hole in the intestines, and the liver was sewed up and the wound was sewed up, and he was taken back to the ward.

Q And did you find the bullet? A We did not.

Q Did you search for it? A As much as possible.

Q As much as possible? That is, as much as the exigency of the case would warrant, you mean? A Yes, as much as we could, without injuring the intestines. The bullet evidently went behind the upper part of the large intestines.

MR. SIMPSON: I move to strike out what evidently took place or what he evidently found.

THE COURT: Strike it out.

BY MR. O'MALLEY:

Q Well, in your opinion, tell us where, if any place, the bullet was lodged? A Behind the intestines.

Q Now, Dr. Dowd performed the operation in your presence, did he? A Yes, sir.

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Q And that was how long after he was brought in?

A I don't remember exactly, but within one or two hours.

Q Within one or two hours? A Yes, sir.

Q And then the wound was dressed? A It was.

Q And did you have charge of the case from that time on? A I did.

Q Now, will you tell the history of the case, Doctor, after the operation, up until the death of ~~the~~ deceased?

A After the operation, he did fairly well, the first day. The second day, there was a little pus in the wound, and it was opened up a little bit. He ran, during this time, a high temperature, and seemed quite sick. The third day, he seemed a little better, but in the evening he became very tremulous, and got up an active delirium, and died at six o'clock, the next morning.

Q Now, Doctor, can you state, in your opinion, the cause of death? A I think death was due to the combination of the shock from the bullet wound, from the operation and from infection, the blood poisoning and his delirium.

Q Well, without the pistol shot wound, would he have died at that time, Doctor?

MR. SIMPSON: I object to that, as calling for a conclusion.

MR. O'MALLEY: I am asking his opinion, from

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his knowledge of the case.

MR. SIMPSON: I object to it as incompetent.

THE COURT: Overruled.

MR. SIMPSON: Exception.

BY MR. O'MALLEY:

Q What is the answer, Doctor? A He would not.

BY THE COURT:

Q Was the operation a usual and proper kind of an operation? A It was, sir.

Q How long have you been a physician? A Two and a half years.

Q Dr. Dowd has been in the hospital for a longer time? A He has been an active practising surgeon for 20 or 25 years.

Q And he performed the operation? A Yes, sir.

BY MR. O'MALLEY:

Q And he was regularly attached to the hospital, was he? A He was the Regular Attending Surgeon at the hospital.

BY THE COURT:

Q And was the usual and proper attention given to the deceased after the operation? A Yes, sir.

Q And that kind of treatment was furnished to the patient? A Yes, sir.

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Q And everything was done that could be done to save his life? A Yes, sir.

CROSS EXAMINATION BY MR. SIMPSON:

Q Doctor, you had just stated that, if it were not for the bullet shot wound, he would have lived. Did you mean to say that seriously? A As far as I can tell.

Q As far as you can tell? A Yes, sir. No man can do more.

Q And that's what you meant, when you testified, and that's what you mean now, that no man can tell another man's hour or time of death? A No.

MR. O'MALLEY: No, that is surely true.

MR. SIMPSON: That's all, Doctor.

MR. O'MALLEY: That's all.

It may be conceded on the record that the person the Doctor has just testified to is the person Michael Collins, the deceased in this case, the deceased named in the indictment.

MR. SIMPSON: Yes, it is so conceded.

THE COURT: No, you had better make the proof, Mr. O'Malley.

MR. O'MALLEY: Very well, sir.

WARREN HILDRETH, being recalled by the

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District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q Were you present, Doctor, when the autopsy was performed? A During part of it.

Q Now, did you see Dr. Lehane there? A Yes, sir, I did.

Q And the body Dr. Lehane performed the autopsy on was the body of Michael Collins, that you have been speaking about? A Yes, sir.

Q And he performed the operation on the 12th day of July in your hospital, the Roosevelt Hospital? A He did.

Q And did you see Officer Brown there? A I don't remember.

Q But you did see Dr. Lehane there? A I did.

MR. O'MALLEY: That's all.

MR. SIMPSON: No questions.

CHARLES S. BROWN, of the 26th Precinct, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q How long have you been a member of the Municipal Police Force? A Since August 31st, 1908.

Q And on the 8th day of July of this year, to what

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precinct were you attached? A The 36th.

Q And where is that located, officer? A 345 West 47th Street.

Q And is 52nd Street and Eleventh Avenue within that precinct? A Yes, sir.

Q Were you on post, that night? A I was.

Q Talk a little more loudly, officer. A Yes, sir.

Q And where were you on post between --- in the neighborhood of eight o'clock in the evening? A My post ran from 49th to 56th Street, and half a block east and west.

Q On what? A 10th Avenue.

Q Were you in uniform? A I was.

Q Now, what, if anything, attracted your attention there, that evening, while you were on post, officer?

A Why, I was up in the middle of the block between 8th Avenue and 9th when I noticed a large crowd going up 10th Avenue.

Q And what did you do after that? A I went down Tenth Avenue, and inquired what was the matter, and they said a fellow was shot.

MR. SIMPSON: I move to strike out that part of the answer.

THE COURT: Motion granted.

BY MR. O'MALLEY:

Q And you went down towards the crowd; didn't you?

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A Yes, sir.

Q And had a certain conversation with somebody?

Yes or no. A Yes, sir.

Q Now, about what hour was it that you saw the crowd? A About eight-thirty.

Q And after you got to Tenth Avenue, and had this conversation, what did you do, if anything? A I jumped on a Tenth Avenue electric car, and rode up to 58th Street, and went over to Roosevelt Hospital.

Q Yes? A To the Accident Ward.

Q Yes. A And asked to see the man that was shot.

Q Yes. All right. And did you see a person there?

A I saw this Michael Collins on the table, and the doctors working over him.

Q Now, did you see Dr. Hildreth there at the time?

A Dr. Hildreth and Dr. King. I'm not sure about Dr. Hildreth, but I saw Dr. King there.

Q Dr. King, of Roosevelt Hospital? A Yes, sir.

Q Were they operating then? A Why, they were trying to locate the bullet then.

Q Had they started the operation then? A Started to cut him?

Q Yes. A No.

Q Now, was the deceased conscious or unconscious at the time? A Conscious.

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Q Now, just answer this question yes or no. Did you have a conversation with him? A Yes, sir.

Q After that conversation, what did you do? A Well, I tried to hold the witnesses that I could find there, and try to get the crowd out of the courtyard, out of like a hall there.

Q And did you see any persons there? A Yes, sir.

Q In the courtyard or otherwise? A Yes, sir, there was a number of persons there.

Q Now, who, in particular, did you see? A I don't recollect just who I seen. How I got those two girls was ----

Q Well, did you get the names of any persons? A I got the names of two girls.

BY THE COURT:

Q You were asked if you did get any names. A Yes, sir, I did.

BY MR. O'MALLEY:

Q Now, who were those girls; do you know?

A Catherine Connors and Helen Ware. ~~W~~

Q Was it Hattie Ware? A Yes, Hattie Ware.

Q And where were they when you saw them? A In the courtyard, outside.

BY MR. SIMPSON:

Q You mean the courtyard of the hospital? A Yes, sir, of the hospital.

BY MR. O'MALLEY:

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Q And did you have a conversation with them, yes or no? A Yes, sir.

Q And after that conversation, did they go any place with you? A I brought them inside.

Q Inside where? A In the hall of the hospital.

Q Now, when you got in there, who did you see, if anybody? A I didn't pay much attention to who was around. I tried to get the witnesses, and try to keep it as quiet as I could there.

Q But did you go to the deceased again, at any time, after the girls came in there? A I went to the deceased first, as soon as I got to the hospital.

Q Now, officer, just listen to my question. After you went back to the hospital with the girls, did you see the deceased again? A Yes, sir.

Q And where were the girls when you saw him? Were they with you? A No, sir.

Q Well, do you know of your own knowledge whether they that night, saw him again, /in the hospital? A I don't know.

Q Do you know whether or not any other officer saw those girls, that night? A Yes, sir, Officer Owens and Lieutenant Kerr.

Q Officer who? A Detective Owens.

Q And how long did you stay there? A About two hours.

Q About two hours? A Yes, sir.

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Q And after that, what did you do? A I called up the station house at the box, and reported I was going back on post, and went back on post, and went down to where the scene of the shooting was. That was part of my post.

Q And did you go back to the neighborhood of 52nd Street and Eleventh Avenue? A Yes, sir.

Q And what time was it when you got back there?

A Between 10:30 and 11.

Q You made ~~x~~ no arrest, that night, did you, officer?

A I made no arrest.

Q Or any special investigation? A I tried to pick up some information, but I didn't get any down there.

Q Now, did you go to the Roosevelt Hospital on the 12th of July? A I did.

Q And did you see Dr. Lehane there? A I did.

Q The Coroner's Physician? A Yes, sir.

Q And did you see the body of Michael Collins there?

A I did.

Q And did you identify that body to Dr. Lehane? A I did.

Q And was that the same body that you saw in Roosevelt Hospital, on the evening of July 8th, when you called there?

A Yes, sir.

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BY THE COURT:

Q Had you known him before? A Yes, sir.

Q You had known Collins before? A Yes, sir.

Q Before the 8th of July? A Yes, sir.

BY MR. O'MALLEY:

Q How long had you known him, approximately? A I would say about two years.

BY THE COURT:

Q Did you know him to speak to? A Yes, sir.

CROSS EXAMINATION BY MR. SIMPSON:

Q You have said, officer, that you could get no information on the night of July 8th, as I understand, from the witnesses, regarding the shooting on 52nd Street. Is that true? Do I understand that? A The witnesses, ~~the~~ the two girls?

Q Yes. A Yes, that's why I held them there, because they knew something about it.

Q They knew something about it? A Yes.

Q Now, what did the first girl say as to her relation to Michael Collins, if any? Did she say anything? A She didn't say anything that I noticed.

Q Didn't she say to you that she was the sister of Michael Collins? A No, sir.

Q Did she say she was his sweetheart? A No, sir.

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ESVJ

Q She said nothing at all of that kind? A She didn't say anything of that kind.

Q How many other girls were there, outside of the two girls that you describe? A Why, there were a number of people; maybe a hundred or two hundred people.

Q But I mean any other persons with the Connors and the Wade girls. A Not that I saw them speaking to them.

Q Did you see a girl there by the name of Golden?  
A I don't know.

Q Were those the only two names that you took at the hospital of witnesses? A Why, I held these witnesses there until the detectives came up.

Q You held them at the hospital? A Yes, sir.

Q At the hospital? A Yes, sir.

Q At the operating room, until Officer Who came up?  
A Officer Owens and Lieutenant Kerr.

Q Were those the only two officers ~~that~~ that came there while you there, holding these two girls? A I think there was another one, I don't know his name. There was another one but I don't know his name.

Q Would you know him if you saw him? A Yes, sir.

Q Was he a precinct man? A A Central Office man, attached to the precinct.

Q A Central Office man, attached to the precinct?  
A Yes, sir.

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Q Was it Detective Burgess? A No.

Q Was it Officer Lennon or Lieutenant Lennon? A I don't think I know Lieutenant Lennon.

Q You don't think you know Lennon? A No.

Q Were there any other persons held there by you as witnesses, except these two girls? A There were two men.

Q What are the names of the two men? A Well, one I knew to be Morgan, and the other I don't know what his name was.

Q Morgan? A Yes, sir.

Q And what was his first name? Give me his first name? A I don't know.

Q How long have you known him? A Oh, I had known him just hanging around the post.

Q You mean hanging around your post? A Yes, sir.

Q On 52nd Street? A No, sir, on 54th Street.

Q Was he one of the Collins crowd? A I've seen him with Collins, at 52nd and 53rd Street.

Q And the other man you didn't know? A No. I've forgotten him altogether, now.

Q Have you seen Morgan from that day to this? A Yes.

Q Where? A I've seen him going down Tenth Avenue, and I think he was at the Coroner's.

Q You think he was? A He was at the Coroner's.

BY MR. O'MALLEY:

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Q At the Coroner's Court, you mean? A The Coroner's office.

BY MR. SIMPSON:

Q Morgan was at the Coroner's office? A Yes, sir.

Q While you were there? A Yes, sir.

Q Was there an inquest held in this case in the Coroner's Court? A There was.

Q Did you testify at that inquest? A No, sir.

Q Were you called as a witness? A I was called.

Q You were called? A Yes.

Q Was a jury empaneled? Did you see a jury in the box? A No, sir.

Q What day of the month were you at the Coroner's Court ~~when~~ when the inquest was held in this case? A I don't know if an inquest was held. I know I was called to the Coroner's Court, and, when I got to the door, they told me they didn't need me.

Q What day was it? Refer to your memorandum book?

A August 8th.

Q August 8th? A Yes, sir.

Q 1913? A Yes, sir.

Q There was an inquest, wherein you were called as a witness, but didn't testify; is that right? A I was called, but wasn't used; I was called and told I wasn't wanted.

Q Speak up loud. I can't hear a word you say. A I

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was called to the Coroner's Court, and, when I got to the door, I was told I wasn't wanted.

Q You were told you weren't wanted? A Yes, sir.

Q Do you want this jury to understand you to say that there was an inquest held on August 8th, in this case? A Why, I should judge there was an inquest held. I wasn't there.

Q I don't want your judgment I want what you know. That's what the Court and jury want, too. A (No answer)

BY THE COURT:

Q Have you told the counsel all that you know? A Yes, sir.

MR. SIMPSON: And I move to strike out his judgement.

THE COURT: Yes, strike it out.

BY THE COURT:

Q You have told him just what you know about it?

A Yes, sir.

BY MR. SIMPSON:

Q Don't you know that there was not an inquest?

THE COURT: Well, haven't you got that from Dr. Lehane, that there was not an inquest? Do you want more than that, counsel?

MR. SIMPSON: Pardon me, I didn't remember that part of it.

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THE COURT: Didn't Dr. Lehane say that there was not an inquest held? I so understood him, and have it on my notes.

MR. SIMPSON: I thank your Honor.

THE COURT: Now, this is matter of public and general law, and you may make such use of it as you see fit, and I will take judicial notice of anything that you ask me to notice, on the subject of any general law.

MR. SIMPSON: I thank your Honor.

THE COURT: Is there anything further?

MR. SIMPSON: No, sir.

RE DIRECT EXAMINATION BY MR. O'MALLEY:

Q When you said that you could not learn anything, that night, you meant after you had gone down to Eleventh Avenue and 52nd Street. A Yes, sir.

Q But you had seen those two girls up at the hospital? A Yes, sir.

Q And in whose charge did you leave them? A In Detective Owens and Lieutenant Kerr's charge.

Q Both of your precinct? A Yes, sir.

Q Then you went back to your post? A Yes, sir.

MR. O'MALLEY: That's all.

MR. McCLELLAND: Now, your Honor, does it appear

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on the record that there was no inquest held?

THE COURT: Yes. Dr. Lehane said so.

MR. O'MALLEY: Yes, so far as Dr. Lehane says, but we don't know what was done there in the way of a preliminary hearing.

MR. McCLELLAND: Well, what was done? We want that understood.

MR. O'MALLEY: Well, we are not going to concede anything that I don't know anything about.

THE COURT: Well, Dr. Lehane has been for a long time doing efficiently the work of the Coroner, and he says that, after examining his record, an inquest was held. I think you ought to be satisfied with that.

MR. McCLELLAND: Yes, sir, we are.

MR. O'MALLEY: We offer in evidence the Coroner's inquisition, and ask to have it in evidence before the jury.

MR. McCLELLAND: I object.

MR. O'MALLEY: It says here that there was an inquest taken by Coroner Hellenstein, on the 6th of August.

MR. McCLELLAND: We object.

MR. O'MALLEY: Well, if it is important, we will go into that later. I don't know whether it is neces-

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sary to hold an inquest or not.

THE COURT: Well, satisfy yourself on that subject, and then produce any testimony that you desire.

MR. O'MALLEY: Yes, sir, we will bring all the proof we have.

THE COURT: Very well. Is that all you want of this witness?

MR. SIMPSON: That is all.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case until Monday morning, December 23rd, 1912, at ten-thirty o'clock).

THE COURT: Before you leave the box, I desire to say, of course, gentlemen, you will not go near any place mentioned here in the case, because you will, of course, receive only the evidence that you hear here, and I am sure that you will not go to the locus, or scene of this alleged crime, unless the Court so directs you to do, when you will be taken in a body there, under a proper escort of officers.

Please be in your places promptly on Monday morning, at half past ten o'clock.

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## TRIAL RESUMED.

New York, December 23rd, 1912.

LUCIAN S. BRECKENRIDGE, of 65 Northern Avenue, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q Mr. Breckenridge, you are one of the Deputy Assistant District Attorneys of the County of New York; are you not?

A Yes, sir.

Q And are attached to the District Attorney's office of this County? A Yes, sir.

Q And you are connected with the Homicide Bureau; are you? A I am.

Q And in the course of your ~~and~~ work in that Bureau, is it your duty to investigate homicide cases? A Yes, sir.

Q And did you make an investigation into the killing of the deceased, Michael Collins? A Yes, sir.

Q And did you attend the Coroner's Court on the 2nd of August of this year? A Yes, sir.

Q Now, will you tell me what proceedings occurred there?

MR. SIMPSON: I object to that.

MR. O'MALLEY: Question withdrawn. I was simply

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going to offer a little preliminary proof as to what occurred there.

THE COURT: Well, how is it important? This jury has been impaneled to determine the guilt or innocence of the defendant, and what took place in any other court would not be of high consequence to the jury here, in my judgment.

MR. O'MALLEY: No, sir, I don't think it is important. And, if I can have a word with Mr. Simpson, we can probably agree on what took place there.

MR. SIMPSON: Well, I have no objection to your talking to me, but I will not agree upon anything. I am going to put my version of it in proof.

MR. O'MALLEY: Then may I not offer the People's proof as to what occurred there?

THE COURT: No, I will sustain the objection to your question, because I do not think that this matter is material at the present time in this case; but, if the matter becomes material or important, you may recall Mr. Breckenridge.

MR. O'MALLEY: Very well, sir. Then I will withdraw the witness. I want to recall Officer Brown for a moment, for one question.

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CHARLES S. BROWN, being recalled by the  
District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q Officer Brown, I think you stated the extent of  
your post on the evening of July 8th, 1912. About how  
long did it require you to cover your post, from one  
end to the other? A About half an hour.

Q About half an hour? A Yes, sir.

Q That is, you had Tenth Avenue, between what  
streets? A Between 49th to 56th Street, and half a  
block east and west.

Q That is, you would go half a block in each street,  
each way, as you passed it? A Yes, sir.

Q And who was the officer who had the post on the  
west of you, the adjoining post? A Officer Malley.

Q And what is that post called? A Post 33.

Q And where does that extend to? A From 49th to  
53rd Street, and about a quarter of De Witt Clinton Park.

Q Now, about how long did it require an officer to  
cover that post?

MR. SIMPSON: I object to that as immaterial,  
irrelevant and incompetent, and calling for a con-  
clusion.

THE COURT: Sustained.

BY MR. O'MALLEY:

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Q Where is Officer Malley? A He's on his vacation.

Q When did he go? A On the 30th of December.

Q On the 30th of December? A Yes, sir.

Q When does he return? A On the 30th of December, ten days.

Q Do you know whether he is in the city or not?

A I don't know.

Q Will you ascertain that for us? A I will try to.

MR. O'MALLEY: That's all.

MR. SIMPSON: No questions.

C A T H E R I N E C O N N O R E, of 507 West 52nd Street,  
a witness called on behalf of the People, being duly  
sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q You live at 507 West 52nd Street; do you? A Yes, sir.

Q Now, speak loudly, so that all these gentlemen can hear you. And with whom do you live there? A My mother and father.

Q And do you work any place? A Yes, sir.

Q Where? A Down in 22nd street.

Q What place? A Kinney Brothers.

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Q And what sort of a place is that? A It's a ~~stagn~~ cigarette place.

Q What? A A cigarette factory.

Q And how long have you worked there? A About four months.

Q And what do you do there? A Well, I'm an examiner.

Q A what? A An examiner.

Q And what does that mean? A Well, the work that comes out of the machine, we examine, to see if it comes out correctly.

Q Well, what work comes out of the machine? Give us a little ~~more~~ better idea. A Well, the cigarettes are put in a machine, and they get rolled like, and come out in boxes from the machine.

Q Now, how old are you? A 16 years old.

Q And when were you 16? A August 7th.

Q Of this year? A Yes, sir.

Q Where did you work before you worked in this cigarette factory? A I worked in dressmaking.

Q For whom? A Madam Julie.

Q And where is her place? A 15th Street.

Q And how long did you work for her? A Well, about five or six months.

Q Now, where were you living on the 8th of July of this year? A 507 West 52nd street.

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Q With your father and mother? A Yes, sir.

Q Now, do you recall that evening? A Yes, sir.

Q Did you go out on the street that evening? A Yes, sir.

Q With whom? A With my ~~girl~~ girl friend, Hattie Wehr.

Q When did you see her first that evening? A She come around to me about seven o'clock, and we took a walk around the corner, and went as far as the candy store on 10th Avenue, and I met my father there and we came back to my house.

Q Now, on which side of 52nd street do you live? A On the north side.

Q And that is between what avenues? A Between Tenth and Eleventh Avenue.

Q And do you live nearer to Tenth or Eleventh Avenue?  
A Nearer to Tenth Avenue.

MR. O'MALLEY: Now, with your Honor's permission, I offer at this time a diagram. I offer in evidence, subject to addition or correction on the part of either side, a diagram, showing Eleventh Avenue and 52nd ~~St~~ Street, in the City, County and State of New York, scale 1 inch to 20 feet.

THE COURT: Does that show how it is improved?  
Does it show the character of the improvements?

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MR. O'MALLEY: It does, your Honor.

THE COURT: That diagram does show that?

MR. O'MALLEY: Yes, sir.

THE COURT: I will receive it.

(It is admitted in evidence and marked People's Exhibit 1).

THE COURT: Do you object to the receiving of the diagram?

MR. SIMPSON: At this time I don't object to it, conditioned on the District Attorney having the architect here to prove ---

THE COURT: Yes, under that qualified acceptance, it is qualifiedly offered and received.

MR. SIMPSON: Yes, sir.

THE COURT: And under those circumstances you may have the architect here.

MR. O'MALLEY: Yes, sir, I will have him here, unless he is sick or something.

BY MR. O'MALLEY:

Q Now, Hattie Weihr came to your house, did she?

A Yes, sir.

Q And you first went over to Tenth Avenue? A Yes, sir.

Q And there you say you saw your father? A Yes, sir.

Q And then you came back to your house; did you?

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A Yes, sir.

Q Now, then, after you came back to your house, where did you go? A Well, we stood at our door a little while, and I went into the janitor's, and I had a had drink of water there, and I came out again, and we stood at the door a little while, and then we took a walk down towards Eleventh Avenue.

Q On what side of the street were you? A On the north side.

Q And what was the time then? A It was going onto eight o'clock.

Q Now, what attracted your attention, if anything, in that street? A Now, down by the garage, some fellows were quarreling down there.

Q Now, what do you mean by quarreling? Were they fighting or talking or what? A Well, they just had a little argument between themselves.

Q Now, I show you the diagram here, and point out that this is West 52nd Street, see (indicating)? A Yes, sir.

Q And it crosses Eleventh Avenue at right angles (indicating). A Yes, sir.

Q Now, as I understand it, you were coming westerly on the north side of 52nd Street? A Yes, sir.

Q And your house was up this way, towards Tenth Avenue (indicating)? A Yes, sir.

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Q And do you see this automobile garage there (indicating)? A Yes, sir.

Q And it was about there you saw the crowd arguing, you say? A Yes, sir.

Q Well, did you stop, or did you pass along? A No, sir, we didn't stop. We kept on going. We didn't pay no attention to it.

Q Now, go ahead and tell the jury how far you went.

A Well, we went down as far as Eleventh Avenue there, and we were attracted by screams. We turned around, and ran across the street to the south side, and run up on the ~~side~~ south side until we hit the first high stoop house there.

Q The first high stoop house? A Yes, sir.

Q Now, just a moment. You proceeded westerly until you got to the northeasterly corner? A Yes, sir.

Q Then you heard screams? A Yes, sir.

Q And then you ran to the south side? A Yes, sir.

Q And ~~then~~ ran to the first high stoop house? A Yes, sir.

Q Do you know what number it was? A About 560.

Q About 560? A Yes, sir.

Q Now, can you point out on there where it was (indicating the diagram)? A Right there (indicating).

Q Put a pencil mark there. A Right there (indicating).

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And we went up about three steps of that house.

Q Of the house, number 580, on the south side? A Yes, sir.

Q Was Hattie Weihr with you at that time? A Yes, sir.

Q Now, when you got up there, what did you do, if anything? A Well, we seen -----

Q Well, where did you look, if any place? A Where did I look?

Q Yes. A Well, we looked across the street, right directly opposite us, on the stoop of the house opposite us.

Q Yes/ And when you looked across, what did you see, if anything? A Well, we saw a fellow there firing five shots.

Q And do you know who that fellow was?

MR. SIMPSON: I move to strike out the answer,

"We saw a fellow there firing five shots".

BY THE COURT:

Q What do you mean? Did you see somebody fire five shots? A Yes, sir.

MR. SIMPSON: But she said "We", your Honor.

THE COURT: Yes, and that will go out, and "I"

substituted.

BY MR. O'MALLEY:

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Q You say you saw a man fire five shots? A Yes, sir.

Q Who was that man? A Daniel O'Leary.

Q Do you see him here now, in court? A Yes, sir.

There he is (indicating the defendant).

Q You are indicating the defendant, Daniel O'Leary?

A Yes, sir.

Q Where was he standing at the time? A Standing right opposite, at the high stoop house, opposite us.

Q And who else did you see there, that evening, besides Daniel O'Leary? A James Collins.

Q Where was Collins? A Laying on the stoop.

Q What stoop? Do you know? A Well, it was the first high stoop house on the north side from Eleventh Avenue.

Q Do you know what the number was? A No, sir. It was right opposite where we were standing.

Q Now, then, can you point out on this diagram where this other high stoop house was? Here is where you say you stood; is it not (indicating)? A Yes, sir, right here (indicating).

Q Right here (indicating)? A Yes, sir.

MR. O'MALLEY: That is 553, Mr. Simpson.

MR. SIMPSON: Very well.

BY MR. O'MALLEY:

Q Now, tell us everything that you saw there, Catherine,

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the first time you looked across. You say you saw Daniel O'Leary there? A Yes, sir.

Q And you saw Collins? A Yes, sir.

Q Are you sure the first name is James? A Well, all I know I heard his name was James, that's all I know.

Q What did you say Collins was doing? A He was crouching down on the stoop.

Q On the stoop? A Yes, sir.

Q Was he on the top of the stoop or where? A No, he was on the first step, just about on the first step.

Q Just about on the first step? A Yes, sir.

Q And where was O'Leary standing? On the sidewalk, on the street or where? A He was standing on the sidewalk, directly over him.

Q He was standing on the sidewalk, directly over him? A Yes, sir.

Q Over Collins? A Yes, sir.

Q Well, now, tell us what you saw O'Leary do?

BY THE COURT:

Q He was directly over Collins; do you mean? A Yes sir.

BY MR. O'MALLEY:

Q Now, tell us what you saw O'Leary do? A Why, I seen him fire five shots.

Q Well, did you see anything in his hand? A Not

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until he turned down /Eleventh Avenue, and then I seen the gun, when he put it in his coat pocket.

Q Put it in his coat pocket? A Yes, sir.

Q Did you see where his arm was when he fired the shots? A Well, it was extended (illustrating).

Q Stand up and show the jury what you mean when you say it was extended? A Like that (illustrating).

MR. O'MALLEY: Pointing her right hand forward from her body.

BY MR. O'MALLEY:

Q And did you see any flash? A Yes, sir.

Q How many flashes? A Five.

Q Now, you say that O'Leary was standing over Collins. Will you stand up and indicate about how far he was away from ~~the~~ Collins, if you can? A Well, Collins was like crouched down about here (indicating), and then O'Leary was about so far away from him (indicating).

Q About so far away from him? A Yes, sir.

MR. O'MALLEY: Can we agree upon that, Mr. Simpson?

MR. SIMPSON: Yes, anything that you wish.

MR. O'MALLEY: Well, four or five feet?

MR. SIMPSON: I should think about four feet, the way she indicates.

MR. O'MALLEY: All right.

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BY MR. O'MALLEY:

Q Now, you have told us where Collins was on the stoop. Can you tell the jury whether the defendant O'Leary was nearer Tenth Avenue, or nearer Eleventh Avenue than Collins? where you saw him standing? A Oh, he was nearer Tenth Avenue.

Q Collins or the defendant? A The defendant.

Q The defendant? A Yes, sir; standing right near Tenth Avenue. He was more to Tenth Avenue than Eleventh, because Collins was crouched in the corner.

Q Yes. Well, now, then, could you see Collin's face? A No, sir, he had his face all crouched down (illustrating).

Q Well, did you see any part of his face? A No, sir.

Q You say you saw the gun? A When he put it in his pocket, when he turned down Eleventh Avenue.

Q Now, did you notice anything else about Collins at that time? A Well, then, when Dan O'Leary went away from him, he got up and started to stagger.

Q No, I mean did you notice anything about the defendant O'Leary at that time, when he went away? A Yes sir, he had a bandage on his left arm.

Q On his left arm? A Yes, sir.

Q And what was the color of the bandage? A Well,

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it was one of them rolls; it was like what they put on you in the hospital.

Q Well, what color was it? A White.

Q white? A Yes, sir.

Q And you say O'Leary went towards Eleventh Avenue?

A Yes, sir.

Q Now, do I understand you --- perhaps I am wrong --- did I understand you to say that Collins was nearer Tenth Avenue than O'Leary, or O'Leary nearer Tenth Avenue than Collins? A Well, both of them was in the direction of Tenth Avenue, because here is the steep and here is Tenth Avenue and here is Eleventh Avenue, and Collins was crouched in the corner of Tenth Avenue.

Q Towards Tenth Avenue? A Yes, sir. And Dan O'Leary was standing right over him, like that (illustrating), and the side of his face was towards Tenth Avenue.

Q And the side of his face was towards Tenth Avenue?

A Yes, sir.

Q Now, then, was his back directly towards you, or was one side of his face towards you, the side of his face?

A The side of his face.

Q Well, which side, right or left? A Right.

Q Did you know O'Leary's name at that time? A No, sir.

Q Did you know him when you saw him? A Well, I seen

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him a couple of times on the corner.

Q Yes. About how many times had you seen him altogether?

A Three or four times.

Q About three or four times? A Yes, sir.

Q Where was O'Leary when you last saw him? A What is that?

Q (Question repeated) A What do you mean? After the accident?

Q Yes. A Well, he was on the corner of the saloon there.

Q Corner of what? A Tenth Avenue.

Q But I am talking of O'Leary, not Collins. Where did you see O'Leary the last time after you say you saw him put the gun in his pocket, and go towards Eleventh Avenue?

A Well, that night I didn't see him again.

Q Well, had he reached Eleventh Avenue when you last saw him? Did you notice? A Well, I didn't pay no attention to where he went, that time. I just followed Collins.

Q You followed Collins? A Yes, sir.

Q Now, which way did Collins go? A He went up towards Eleventh Avenue.

Q Along 52nd Street? A Yes, sir, on the north side.

Q And did you go, too? A Yes, I followed Collins.

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Q And who went with you? A Hattie.

Q Hattie Weihr? A Yes, sir.

Q And how far did you follow him? A Well, we followed him all the ways up to the hospital.

Q Now, did Collins walk all the way alone, or what happened? A Well, when he got up after he shot, he walked on the north side all by himself, and started to stagger, and no one went near him, until he got near the stable, about two doors away from our house, near Tenth Avenue, then some fellows went over and assisted him ~~to~~ to Tenth Avenue, and on Tenth Avenue and 54th Street, there was a peddling wagon, and they put him in the peddling wagon and rode him all the way up to the hospital, Roosevelt Hospital.

Q Roosevelt Hospital? A Yes, sir.

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

Q And did you say that some fellows came and assisted him on the street? A Yes, sir.

Q Where did they come from? A Well, out of the crowd.

Q Did you know anybody else in the crowd, that night? A No, sir.

Q At the time when you saw the defendant fire the shots, as you say, was anybody else on the sidewalk, besides Collins and the defendant? A No, sir, I didn't

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see nobody else.

Q Did you see anybody else in the street? A Well, there was a crowd over by us. But do you mean where the shots were fired?

Q Yes/ A No, sir, there waano one else ~~kn~~ there but Collins and the defendant.

BY THE COURT:

Q Did you know Collins at that time? A No, sir, I didn't know him to speak to. I seen him a couple of times on Tenth Avenue.

BY MR. O'MALLEY:

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

Q And where were the other people in the street at that time, at the time of the shooting? A They were ever on our side.

Q Were there people out in the street there? A Yes, sir, out in the gutter!

Q And how many people were there, should you say, out in the gutter? A Well, there was a big crowd, I couldn't tell you how many.

Q Well, then, you went on up to the hospital, did you? A Yes, sir.

Q And when you got up there did you go into the hospital? A No, sir. We stood outside of the door.

Q You stood outside of the door? A Yes, sir.

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Q Now, did you see Officer Brown there? A Yes, sir.

Q Outside? A No, sir, he was in like the hall.

There is like a little hall there, and we were standing outside, and we were talking to some woman there, and she happened to ask us -----

Q Never mind that. You talked to some woman there? A Yes, sir.

Q And did you see Officer Brown there? A Yes, sir, he come out.

Q And he had a talk with you? Yes or no? A Yes, sir.

Q And after you talked to him did you go into the hospital? A Yes, sir, he took us inside.

Q He took you inside? A Yes, sir.

Q Now, at any time after you get into the hospital, did you see Collins? <sup>Well,</sup> A/ when the door was open and I looked in.

Q Looked in where? A In the room where he was.

Q In the room where he was? A Yes, sir.

Q Now, where was he at that time? A Well, he was laying on the table in the middle of the room.

Q And did you see anybody around him? Any doctors? Did you see any doctors around him? A Yes, sir.

MR. O'MALLEY: Is Dr. King in court?

BY MR. O'MALLEY:

Q Now, what were they doing to him, if anything?

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A Well, I didn't see. There was a sheet on him. They were only standing there; that's all I could see.

Q You didn't have any talk with Collins, of course, did you? A No, sir.

Q Well, now, then, was the person that you saw lying there in the hospital, with the doctors near him, the same person that you had seen crouching on the stoop of the house down in 53rd Street, when the shots were fired?

A Yes, sir.

Q That was the same Collins; was it? A Yes, sir.

Q And that was the same person that you saw walk from the stoop, along 53rd Street, and up Tenth Avenue, until he was put in the ——— A Peddling wagon.

Q Put in the wagon? A Yes, sir.

Q And taken to the hospital? A Yes, sir.

Q Is that right? A Yes, sir.

Q Catherine, do you remember when you were in the Coroner's Court? A Yes, sir.

Q And there was a preliminary hearing there, when you testified; was there not? A Yes, sir.

MR. SIMPSON: Wait a moment. I object.

THE COURT: Overruled.

MR. SIMPSON: Exception.

BY MR. O'MALLEY:

Q Now, did you there say that you knew who it was that

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fired the shots at Collins?

MR. McCLELLAND: I object to that.

THE COURT: Sustained.

MR. O'MALLEY: All right, sir. I want to have it appear that there was such a proceeding there, your Honor; that's all.

MR. McCLELLAND: I withdraw that objection.

MR. O'MALLEY: Very well.

BY MR. O'MALLEY:

Q Now, did you say in the Coroner's Court that you knew who it was that fired the shots at Collins? A No, sir, I did not.

Q What did you say? A Well, I went back of everything I had said. I made a statement in 47th Street Court, and, when I went to the Coroner's Court, I went back of everything I said.

Q Well, why did you do that? A Because I was frightened.

MR. McCLELLAND: I object to that, as incompetent.

THE COURT: Sustained. Strike out the answer.

MR. O'MALLEY: I think we ought to have it, sir.

THE COURT: Sustained. It is incompetent at this time, Mr. O'Malley, I think.

BY MR. O'MALLEY:

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Q Now, you testified that you had a conversation with Officer Brown; did you not? A Yes, sir.

Q And did you also make a statement at the police station to any officer? I will withdraw that. When was the next time you saw O'Leary there on the street, after having fired the shots? A Well, I saw him, one night, on the corner of Tenth/<sup>Avenue</sup> and 52nd Street. It was before the arrest.

Q How long was that after the shooting? A Oh, that was about two or three nights after.

Q Two or three nights after? A Yes, sir.

Q And who was with him then? A Nobody. He was all by himself.

Q When did you next see him? A I seen him down at 47th Street station house.

Q When was that? The day he was arrested? A Yes, sir.

Q Now, how did you come to go there? A Well, two detectives come to the house after me.

Q Yes. And did anybody else go down with you?

A Yes, my mother, and Hattie Wehr and her mother.

Q And her mother? A Yes, sir.

Q And about what time did you go down there? A About half past nine.

Q And when you got to the station house, what, if anything, did you do? A Well, when we got into the station

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house, they told us to go into this little room.

Q Now, don't tell us what was said. Just tell us what you did. You went into a room? A Yes, sir.

Q You and Hattie? A Yes, sir.

Q Now, when you got to the station house, were you, at any time, taken into another room? A Yes, sir.

Q And who was with you when you were taken in? Anybody? A No, sir, nobody. I was taken in all by myself.

Q And when you got into that room, what did you see there? A A line of men.

Q Well, about how many? A Well, about 15 or 20.

Q Now, tell us, after you got in there, what was done. What did you do? A Well, they told us to walk up and down the line, and see which man it was done the shooting.

Q Yes. A And I walked up and down about three or four times, and I walked over and put my hand on Dan O'Leary.

Q The defendant was in the line? A Yes, sir.  
that

Q And was that the same man/you had seen fire the shots? A Yes, sir.

Q After doing that, what did you do? A Well, then, one officer come over to me, and took me out of that room, and put me in a room with the matron.

Q With the matron? A Yes, sir.

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Q And after you came out of the room, where you saw Daniel O'Leary, did you see Hattie again? A No, sir, I didn't see her.

Q Now, at the station house, that night, did you make a statement? A Yes, sir.

Q To the officers there? Did you? A Yes, sir.

Q What officer was it? Do you remember? A Well, I don't know his name. He is a tall thin fellow, dark hair.

Q And before you testified in the Coroner's Court, had you been to the District Attorney's office? Had you made a statement, I mean? A To the District Attorney?

Q Yes. A Well, not before --- well, I don't understand quite what it means.

(The question is repeated by the stenographer).

A No, I wasn't to the District Attorney's office until I come out of the Coroner's Court.

Q But you had made a statement, you say, in the station house? A Yes, sir.

Q Now, Catherine, at the time you saw the shots fired, was it light? A Well, light enough so that you could see.

Q What? A It was light enough so that you could see.

Q It was light enough so that you could see? A Yes,

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Q sir.

Q Was it dark then? A It was just getting dark.

Q Were the street lamps lighted? A I think they were, but I couldn't say for ~~xxxxxx~~ sure.

Q How many steps up were you on the house across the street? A Three.

Q Three? A Yes, sir.

Q Well, from where you stood you could see plainly across the street; could you? A Yes, sir.

Q And see well enough to identify faces and forms?

A Yes, sir.

MR. SIMPSON: I object to that as immaterial and as calling for a conclusion.

MR. O'MALLEY: I just want to show how well she could see, if your Honor please.

MR. SIMPSONS: I object to it as incompetent.

THE COURT: Objection sustained. Strike it out.

BY MR. O'MALLEY:

Q Well, you could see faces across the street; could you? A Yes, sir.

MR. McCLELLAND: I object to that.

THE COURT: Sustained. Strike out the answer. She says she did see the side face of the defendant, and she has also said that she saw him do something

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as he was going towards Eleventh Avenue.

BY MR. O'MALLEY:

Q Well, you could see faces across the street easily; could you? A Yes, sir.

MR. McCLELLAND: I object to that.

THE COURT: Objection sustained. Strike out the answer. She says she did see the side face of the defendant and she has also said she saw him do something as he was going towards Eleventh Avenue.

Let it stand that way.

BY MR. O'MALLEY:

Q You have ~~not~~ never had any trouble with O'Leary, have you, Catherine? A No, sir.

Q Or with any of his family? A No, sir.

MR. O'MALLEY: You may cross examine.

CROSS EXAMINATION BY MR. SIMPSON:

Q Now, Katy, had you ever worked for anyother person other than Madame Julie and Kinney Brothers? A Yes, sir.

Q Where? A Down at the Auto.

Q What is that? A It's a piano factory.

Q Where? A In 50th Street.

Q Between what avenues? A Between Eleventh and Twelfth Avemes.

Q And how long had you worked there, Katy? A Not

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long; about three weeks.

Q And prior to that time did you work for anybody?

A No, sir.

Q Did you attend school regularly? A Yes, sir.

Q How many children are there in your family?

A Five.

Q Five? A Yes, sir.

Q Can you name the youngest to the oldest? A Yes, sir.

Q Be good enough. A Bernard Connors.

Q How old is Bernard? A Eight years old. Mary Connors, 14; Catherine Connors, 16; Robert Connors, 20, and Patrick Connors, 28.

Q And your father and mother? A Yes, sir.

Q How long had you known Michael Collins? A Not long. Only since ----

Q Well, how long? A Well, I only seen him a couple of times around there since I live on 52nd Street.

Q How long had you lived on 52nd Street? A Going on three years.

Q And before that time where did you live? A 53rd.

Q In that vicinity? A Yes, sir.

Q Between Tenth and Eleventh Avenue? A Yes, sir.

Q Do you know where Michael Collins lived? A No, sir.

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Q Do you know Michael Collins' sister? A No, sir.

Q Sure about that? A Yes, sir.

Q You don't know any member of his family? A No member of his family at all? A No, sir.

Q Have you ever met them? A No, sir.

Q Since this thing happened? A Never.

Q Ever spoken to anyone of the family? A Never.

Q I want you now to fix as near as you possibly can the time that you and Katy Weihr — A Hattie Weihr.

Q Yes, Hattie Weihr. Walked through 52nd Street, from Tenth to Eleventh Avenue, when you saw this crowd quarreling, as you say? A Well, it was between seven and eight o'clock.

Q Well, now, let us get it a little nearer, if you possibly can. Was it eight o'clock? A No, not quite eight o'clock.

Q Was it ten minutes after eight? A It was about a quarter to eight, or something like that; between half past and eight o'clock.

Q What is that? A Between half past and eight o'clock, as near as I could get it.

BY MR. O'MALLEY:

Q Between half past seven and eight, you mean?

A Yes, sir.

BY MR. SIMPSON:

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Q You have testified that you met your father — you first met Katy Weihr? A Hattie Weihr.

Q Yes, Hattie Weihr. A Yes, sir.

Q And that you took a walk around the block? A Yes, sir.

Q And went into the house and got a drink of water? A Yes, sir.

Q And you came out of the house? A Yes, sir.

Q You and Hattie? A Yes, sir.

Q And then started to take this walk? A Yes, sir.

Q Is that what you did from the time you left your home, and started away, until the time you say you saw this trouble? A Yes, sir.

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

Q Positive? A Yes, sir.

Q Can't be mistaken? A No, sir.

Q What time was it your father sent you home with the child? A That was about a quarter after seven.

Q Quarter after seven? A Yes; sometime around that.

Q Was Hattie Weihr with you then? A Yes, she was.

Q Were you talking with your father at Tenth Avenue and 52nd street at that time? A Yes, sir, by the candy store.

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Q Right by the candy store? A Yes, sir.

Q And while you were talking to your father, just a few moments before you had left him, shots were heard; were they not? A Well, I left my father at Tenth Avenue, and he walked down as far as our door with me, and then I went in and had the drink of water, and my father had left us, and I stood outside of the door, come out again, and stood outside of the door, a little while, with Hattie, and then we took a walk down to Eleventh Avenue, and that's the time we heard the shots.

Q Wasn't your father at the door when you came out?

A No, sir, he wasn't.

Q Well, when your father told you to take the child into the house, what time was that, as near as you can recollect? A Well, I don't know. I couldn't tell you about what time it was.

Q Well, would you say it was near eight o'clock?

A No, sir, it wasn't near that time.

Q But how do you know it wasn't near that time?

A Well, the accident occurred about eight o'clock.

Q How do you know the accident occurred about eight o'clock? A Because I was down there.

Q Is that the only way you fix the time, eight o'clock, because the accident occurred at that hour?

A Well, as nearly as I can judge, about that time.

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Q How did you judge? Did you see a watch or clock or anything? A No, sir.

Q Do you know what time it was when you got to the hospital? A No, sir, I don't.

Q You haven't any idea as to that time? A No, sir.

Q Well, what time did you get home, that night?  
A Well, about half past ten.

Q Well, how long had you been in the hospital? A Well, we were in there quite awhile.

Q Well, how long? An hour, or ten minutes, or half an hour? A I couldn't tell you.

Q Were you there three-quarters of an hour? A No, I didn't take much stock of the time.

Q You didn't take much stock in the time? A No, sir.

Q But you took a great deal of stock in Collins; didn't you? A Well, I didn't pay any attention to him. I didn't care for him.

Q You were interested in Collins; weren't you?  
A I was interested in him when he got shot.

Q Why, you were interested in him before that; weren't you? A Well, I was interested in seeing where he got shot.

Q No. Before the time of the shooting, and before the 8th of July, you were interested in Collins; weren't you? A What do you mean?

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Q Were you ever in De Witt Clinton Park with him?

A No, sir.

Q Or did you ever go to any moving picture show with him on Eighth Avenue, between 52nd and 53rd Street? A No, sir, I never went out with that fellow in my life.

Q Weren't you with him, that previous Saturday, about two o'clock in the afternoon? A No, sir.

Q Weren't you walking on Eleventh Avenue with him?

A Never, no, sir. I never took a walk with that fellow.

THE SECOND JUROR: I would like to ask a question.

THE COURT: I always prefer to let counsel try the case, and, if there is something that they do not cover entirely, and the juror thinks it important, if he will rise in his place and direct that inquiry to the Court, I will ask one of these gentlemen, who have the charge and management of the case, to take it up with the witness. But let us try to keep in our respective places. I myself do not like to encroach upon counsel, and I will ask jurors to join with me in that part of our duty. If there is something, though, that has not been covered, that you think important, if you will direct it to me, I will see, if I think it is important, that one of these gentlemen prosecute the inquiry. But wait until they

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have finished.

BY MR. SIMPSON:

Q Do you know a Miss Golden? A No, sir, I don't.

Q Did you meet a Miss Golden at the courtyard of the hospital on the night of July 8th? A No, sir, I didn't. I don't know Miss Golden.

Q Did you speak to any other person there, other than the police officer and Hattie Weihr, on that night? A Well, there was a woman outside there, but I don't know who the woman was.

Q Well, you were talking to that woman but you don't know who she was? A No, sir, I don't know who she was.

Q And you don't know whether she was Miss Golden or not; do you? A No, sir.

Q Now, we will get back on the street there. That is the garage; is it (indicating People's Exhibit 1)? A Yes, sir.

Q This is the gag garage? A Yes, sir.

Q Is that right? A Yes, sir.

Q And how far from the garage is your house, at Tenth Avenue? A Well, it's a way up.

Q A way up? A Yes, sir.

Q That is, quite some distance up; isn't it? A Yes, sir.

Q You are two doors to the west of Tenth Avenue, on

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the north side? A Yes, sir.

Q But that is not shown on this map here, is it?

A No, sir.

Q When you got down in front of, or near the garage, you saw quite a crowd there; did you? A Yes, sir.

Q And heard a lot of quarreling? A Yes, sir.

Q Did you see any fighting going on? A No, I didn't pay no attention to that crowd. I walked right by.

Q Were there two crowds or one crowd? A There was one crowd.

Q Now, you saw and heard them quarreling, but you didn't know what they were saying? A No, sir, I didn't.

Q About how many people were in that crowd? A About seven or eight.

Q Well, wouldn't you say there were 10 or 12? A There wasn't quite that many there.

Q There wasn't quite that many there? A No, sir.

Q Is that right? A Yes, sir.

Q They were all in front of this garage? A Yes, sir.

Q Did you see Collins when you passed? A No, sir, I didn't. I didn't take no stock to who was there. I walked right by.

Q Did you see Golden there? A I didn't take no stock. I walked right by.

Q Do you know Golden? A Not to speak to. I know him

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by sight.

Q Well, how long do you know Golden? A Well, not long.

Q Do you know that Golden and this defendant were arrested at the same time, and brought to the Coroner's Court; you know that; don't you? A Well, I know him from over there. They mentioned his name there.

Q Did you identify Golden also? A No, sir, I didn't.

Q Were you ever in the moving picture show on Eighth Avenue, between 53rd and 54th Street? A Yes, sir.

Q Did you go there frequently? A No, not very often.

Q And you know that Golden worked there; don't you?  
A Yes, but I never had a conversation with him, but my friend, Hattie Weihr, did. That's how I come to know who he was, but I never spoke to him.

Q Did you ever see Collins in there? A No, sir, I didn't.

Q At any time? A No, sir.

Q Well, how often did you and Hattie Weihr go to the moving picture show on Eighth Avenue, between 53rd and 54th Street, where Golden worked? A Well, since I have been going with her, I didn't go over there very often.

Q Well, how many times? Three, five or ten times?  
A I don't know how many times.

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Q Quite frequently; weren't you? A Yes, sir.

Q Whenever you got a chance to go over there?

A Yes, sir.

Q Now, did you ever go to the moving picture show on Tenth Avenue between 50th and 51st Street? A Yes, sir.

Q Well, how often did you go there?

THE COURT: Do you mean prior to ~~the~~ the 8th of July, Mr. Simpson? I take it that you do.

MR. SIMPSON: Yes, sir.

BY MR. SIMPSON:

Q Prior to the 8th day of July, I am speaking of. His Honor made a suggestion there that I accept. Prior to the 8th day of July, 1912, you used to frequent these places; didn't you? A Yes, sir.

Q And you went to De Witt Clinton Park quite frequently with Hattie Weihr; didn't you? A No, sir.

Q Well, how far is that park from your house? A Well, it's just down on Eleventh Avenue.

Q Close to your home? A Yes, sir.

Q And you didn't go there very often; did you?

A No, sir.

Q You preferred going to moving picture shows; didn't you? A Yes, sir.

MR. O'MALLEY: Oh, to that I object, your Honor.

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THE COURT: Sustained.

BY MR. SIMPSON:

Q Now, at any of these moving pictures shows did Collins go with you? A Never.

Q Well, after you had been to the hospital, and had pardoned me. I withdraw that question. Did you at any time at the hospital say that you were the sister of the friend of Collins, to anybody? A Friend or sister?

Q Yes. A I did not. I never said that, that I was a friend or sister to Collins.

Q Well, how did you get into the operating room there, where they were operating on him, and look in? A I wasn't inside. I was outside. The operating room was like, say, over there, and I was standing over here (indicating).

Q Didn't you say to the jury that you looked in and saw him on the table? A Yes, sir.

Q And saw the doctors? A Yes, I said I did. The door was open.

Q And were there others around there looking in? A Well, there were some fellows inside.

Q Well, were there any other girls or women there? A No, only Hattie and I, and we were talking to Officer Brown, outside, and the door happened to open, and I looked in.

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Q But up to the time that you looked in, just prior to the time you looked in, had you spoken to Officer Brown?

A Yes, sir.

Q And were you waiting there for Officer Brown to come out, to come out and get you? A Officer Brown was outside.

I mean when Officer Brown was inside of this room.

Q Yes. A And Collins was in this other room, on the operating table, and somebody come out of the room, and I happened to look in.

Q Well, up to that time, had you spoken to Officer Brown? A No, sir. My girl friend Hattie was talking to Officer Brown.

Q Was he outside in the hall when she spoke to him?

A Yes, sir.

Q In the courtyard of the hospital? A No. As you come in, there is a big room, and they have instruments on the table, and there is doctors stay in this room, and then there is another little room like, say, over there (indicating), and in this little room there is where Collins was laying, on the table. And I think it was his brother that come out of the room.

Q You knew his brother? A Well, I heard people say it was his brother.

Q Well, you knew his brother? A Not to talk to.

That's the first time I ever seen him.

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Q That was the first time you ever saw him? A Yes, sir.

Q But what was your interest in Collins, is what I want to know, and what the jury want to know, what was your interest on that night in coming up to the operating room, and seeing Collins? A To see if he was hurt.

Q Why did you want to see if he was hurt? A Well, everybody wanted to see it.

Q Now, who is everybody else, if you can recollect? A Well, they were all strangers, I didn't know none of them people that was up in the yard with us.

Q Well, about how many were up there? A Well, there was quite a crowd there.

Q What kind of a crowd was there on 52nd Street, at the time of the shooting? A There was a large crowd there, too.

Q Quite a large crowd? A Yes, sir.

Q You followed it right up to the hospital, didn't you, after the shooting? A I did.

Q With the rest of the crowd? A Yes, sir.

Q And did you notice any persons in that crowd that were following, that were at the place at the time of the shooting? A No.

Q No one at all? A No.

Q How far is it from the place of the shooting to the

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hospital? A Well, the hospital is at 58th Street and  
Ninth Avenue.

Q Yes. A And the shooting occurred at 52nd Street  
near Eleventh Avenue.

Q 52nd Street, near Eleventh Avenue? A Yes, sir,  
near Eleventh Avenue.

Q Which way did you go to the hospital? A Well, I  
went up on the south side of 52nd Street, and walked  
right up to Tenth Avenue, and all along Tenth Avenue to  
58th Street, and then we went to the hospital.

Q How far ~~back~~ were you behind this peddler's  
wagon in which they had put Collins? A Oh, this  
peddlingwagon got there before we did.

Q Did you lose sight of the peddling wagon going up?  
A Yes, we did, because they went very quick.

Q Now, you came down to the Coroner's Court? A Yes,  
sir.

Q You never appeared in the Coroner's Court before  
twelve men, the jury, and the Coroner; did you? A Well,  
there was quite a number of men there.

Q I mean, sitting in the jury-box? A No, sir.

Q Did you ever sit on the chair there and give your  
testimony there, testifying before the jury? A No, not  
like that.

Q You were in a room? A Yes, sir.

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Q And Lieutenant Kier and Officer Fitzpatrick had you?

A Yes, sir.

Q And they had this defendant; didn't they? A Yes, sir.

MR. O'MALLEY: Now, are you referring to the Coroner's Court?

MR. SIMPSON: To the Coroner's Court.

MR. O'MALLEY: The Coroner's Court?

MR. SIMPSON: Yes. What's the matter?

MR. O'MALLEY: Nothing. Why don't you go on?

MR. SIMPSON: I thought you wanted to put in an objection.

MR. O'MALLEY: No. No objection whatever.

THE COURT: Go ahead.

BY MR. SIMPSON:

Q And there were officers there, leading from one into the other? A Yes, sir.

Q You remember meeting a man by the name of Schwartz over there? A Yes, sir.

Q You made a statement over there; did you not? A Yes, I did.

Q Do you know what day of the month that was? A No, sir.

Q Don't you know what day of the month that was? A No, sir.

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Q Was it in the month of August? A Why, I don't quite remember.

Q How long after the shooting? A I don't remember how long it was.

Q About a week or a month? A Well, it must have been about a month.

Q A month? A Yes, sir. I'm not sure.

Q Now, you were asked by Mr. Schwartz, weren't you, the man you were talking to --- that was the Coroner's clerk, wasn't it? A Yes, sir.

Q Is this the gentlemen you saw at the Coroner's Court (indicating Archie Hamill)? A Yes, sir.

MR. O'MALLEY: May it appear that the gentleman who stands here is Mr. Archie Hamill, one of the stenographers attached to the Homicide Bureau of the District Attorney's office? Is that satisfactory?

MR. SIMPSON: Yes.

BY MR. SIMPSON:

Q And was that the gentleman that was writing ---

A Yes.

Q While you were making your statement? A Yes.

Q You made two statements at the Coroner's office; did you not, Katy? A Yes, sir.

Q You were sworn before the Coroner; were you not?

A Yes, sir.

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Q And did you make -- did you see Mr. Breckenridge here, this morning, the gentleman, the Deputy Assistant District Attorney who was here? A (No answer)

MR. O'MALLEY: I don't think she knows who he is. I will send for him.

BY MR. SIMPSON:

Q Were you asked this question at the Coroner's office: "Q. Were you in 52nd Street on the night of July 8th, 1913?" And you said, "Yes, sir." A Yes, sir.

Q "Q. Between eight and nine o'clock, was your attention attracted to anything? A/ By the screams, when I was walking down 52nd Street. Q. 52nd Street, near Eleventh Avenue? A. Yes, sir." A Yes, sir.

MR. O'MALLEY: I think he should ask her separately as to each question and answer, your Honor.

MR. SIMPSON: Well, if you say you hadn't testified to these things, please say so, as I go along in reading the testimony. Do you understand?

THE WITNESS: Yes, sir.

BY MR. SIMPSON:

Q "Q. Tell us what you saw? A. I saw a little argument. We didn't pay no attention to the argument. We walked along as far as Eleventh Avenue and 52nd /Street. We turned west. We were attracted by the screams. So we

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A  
went on the other side of the street, and at the first  
stoop down we saw the shots going off.

BY THE CORONER:

Q. You saw or heard the shots going off? A. We saw  
the shots.

Q. You saw a flash? A. Yes, sir.

Q. And smoke? A. Yes, sir."

MR. O'MALLEY: Now, if your Honor please, I  
presume this is all right, but I think it is better  
to ask her if she so testified, as to each question  
and answer, so as to make it clear.

MR. SIMPSON: All right. If I read anything  
here that you don't remember having said, tell me  
immediately and I will stop. Do you understand?

THE WITNESS: Yes.

BY THE COURT:

Q Do you recall those questions and answers being  
asked and made at the time? A Yes, sir.

MR. O'MALLEY: Well, if she does, that's all I  
want. Go ahead.

BY MR. SIMPSON:

Q "Q. Go ahead, young lady. A. And so we didn't  
pay no attention to the fellow that did it, because we ran  
away.

Q. Did you see which way he ran? A. No, I didn't

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see where he ran to. And then we followed Michael Collins up to the hospital. Someone assisted him to the hospital.

BY MR. BRECKENRIDGE:

Q. Who assisted him? A. I don't know.

Q. Did you hear Collins say anything? A. No, I didn't.

Q. Did you recognize anybody voice in the crowd at Eleventh Avenue and 52nd Street? A. No, I didn't.

Q. Can you identify anyone in that crowd? A. No, I couldn't  
I can't swear to anyone you bring up."

("At this point, Cornelius Golden and Daniel O'Leary were brought in").

"Q. Look at these two men, Golden and O'Leary. Do you know either of these two men? A. No, I don't know them.

Q. Did you see them there on July 8th, at Eleventh Avenue and 52nd Street? A. No, sir. My back was turned. I couldn't see their faces.

Q. Didn't you, in the 26th Precinct station house, up at the station house there, identify the defendant O'Leary as the man you saw do the shooting, that night? A. I said I didn't see him do the shooting. All I saw was the back of his head. He was a blond haired fellow.

Q. Did you sign a statement in regard to this matter?

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A. Yes, sir.

Q. Didn't it say: 'On the night of July 8th, in West 52nd Street, near Eleventh Avenue, I saw Daniel O'Leary discharge five shots from a pistol?' A. I didn't know what I was signing. I was excited. I didn't read it carefully.

Q. Didn't I ask you in the hall, a moment ago, if you had signed it? A. Yes, sir.

Q. Didn't I ask you if you had read it and you said you had read it? A. Yes, sir.

Q. And now you say you ~~had~~ <sup>didn't</sup> read it? A. I did read it, but not carefully there.

Q. Now, you say you don't know whether Daniel O'Leary had fired any pistol shots on the street, that night? A. Yes, I said I couldn't swear if he is the fellow that fired the shots, that night, because I didn't see his face. I only saw the back of his head.

Q. Do you recognize that paper (showing a paper)? A. Yes, I do.

Q. What is that? A. That's just the paper I signed.

Q. Will you read it to us? A. 'Catherine Connors, of 527 West 52nd Street: I was going west on 52nd Street. I seen the argument. I walked down as far as the corner 52nd Street and Eleventh Avenue. I heard the screams and turned back, and walked up on the other side to the first

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high stoop house, and saw Daniel O'Leary fire five shots from the revolver. Collins staggered to Tenth Avenue, and some unknown men took him in a wagon to Roosevelt Hospital. Now, do you recollect that? A Yes, sir.

BY THE COURT:

Q Do you recall those questions asked and answers made? A Yes, sir.

MR. SIMPSON: I now state, if your Honor please, that those were not the questions or answers. That is a statement being read to the witness.

BY THE COURT:

Q Well, the statement, as well as the questions and answers that were read to you? A Yes, sir.

Q You recall those, do you? A Yes, sir.

BY MR. SIMPSON:

Q \*Q. Now, what name is signed to it? A. My name, Catherine Connors.

BY THE CORONER:

Q. Have you ever seen Daniel O'Leary before in your life? A. I only saw him once.

Q. Did you know his name? A No, I didn't know his name.

Q. You never knew his name was Daniel O'Leary? A No, sir, I never had a conversation over the fellow in my life.

Q. Now, how did you come to state that Daniel O'Leary

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was the man that did the shooting --- in this paper you mention his name --- how did you know his name was Daniel O'Leary? A. Well, that officer there said his name was Daniel O'Leary.\* Which officer had you referred to at that time, that had told you it was Daniel O'Leary?

A (No answer)

MR. SIMPSON: Now, don't be afraid of Mr. O'Malley. Just answer my question.

THE COURT: No, you must not characterize in that way, and you know that it is very improper. Proceed. Just put your questions.

BY MR. SIMPSON:

Q Now, which officer had you referred to? A Well, I don't quite remember which officer it was.

Q Was Officer Kier? Try and think? A I don't know, sir.

Q Well, you know Officer Kier very well, don't you? A Yes, sir.

Q Well, which was it? Was it Officer Kier, who told you it was Daniel O'Leary? A Well, I don't quite remember now which one I pointed at.

Q Do you remember the one that pointed O'Leary out to you? Which officer it was that pointed O'Leary out to you? A (No answer)

Q In other words, you don't remember which one it

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was that pointed O'Leary out to you?

MR. KOENIG: Well, is that testimony directed to the testimony given at the Coroner's Court, or where?

THE COURT: Are you asking for the fact, Mr. Simpson, independent of anything else? I assume that you are.

MR. SIMPSON: Yes, sir, for the fact.

(The question is repeated by the stenographer).

A No, sir.

Q But some officer had pointed him out to you; hadn't he? A Yes, sir.

Q Now, do you remember this answer: "A. I said I didn't know his name. He's a blond haired fellow. I only seen the back of his hair."

BY MR. MULDOON:

Q. You can write? A. Yes, sir. Do you remember that question being put to you, and that answer? A Yes, sir.

Q "By Mr. Breckenridge: Q. How did you happen to pick Daniel O'Leary out of the line there? Did you pick him out of your own free will? A. Yes, sir.

Q. Did anybody tell you to pick that man out? A. No, not exactly.

Q. Well, explain exactly what you did when you went before the line-up of men and picked Daniel O'Leary out.

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Just tell what you did, that night, when you picked O'Leary out? A. I was so excited, I just put my hand on him. I told them in the room I wasn't sure, no. I said I didn't know his face. I only saw the back of his head. They said, 'Touch who you think it was.' I was so excited, I didn't have time enough to tell them I wasn't sure.

Q. Did you <sup>go</sup> right up to O'Leary and pick him out, or did you go up and down the line, two or three times?

A. I stood there right at the line.

Q. Did you touch any other man in the line? A. No sir.

Q. Have you talked with anybody else about this case? A. No, sir, I didn't.

Q. Since the time of the identification? A. No, sir.

BY THE CORONER:

Q. Did your mother or father speak to you about it?

A. No, sir, they didn't say anything to me.

Q. Or your aunts or uncles? A. No, sir.

Q. You had no conversation except with detectives about this case; you had no conversation with anybody else. A. No, sir."

Were those questions put to you and were those answers made by you? A. Yes, sir.

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Q. By Mr. McGeehan: Q. When you picked out O'Leary, did you see who was next to O'Leary? A. No, sir.

Q. It wasn't any policeman of that station house who was next to O'Leary, that you knew of; was it? A. No, sir.

BY MR. BRECKENRIDGE:

Q. Did you know anybody else in the line? A. No, I didn't.

Q. Where were you standing when you picked O'Leary out? Were you facing right in front of him? A. Yes, sir, right in front of him.

BY THE CORONER:

Q. Do you attend church? A. Yes, sir, I do.

Q. Go regularly every Sunday? A. Yes, sir, I do.

MR. SIMPSON: That's the end of that statement, your Honor.

THE COURT: Will you mark that for identification, Mr. Simpson?

MR. SIMPSON: Yes, sir. I have just received it from the District Attorney, who very kindly lent it to me. I have never had it in my possession until this very minute. There is a little more, I am informed.

BY MR. SIMPSON:

Q. Catherine Connors, recalled; Also present, Daniel

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A. Kier, 26th Precinct." The Daniel A. Kier, who was present there, was a policeman, a lieutenant of police?

A Yes, sir.

Q That is the person whom you have seen all along in this case; isn't that a fact? A Yes, sir/-

Q That was your statement; was it? A Yes, sir.

MR. SIMPSON: Now, will you take this part of it off, Mr. O'Malley?

MR. O'MALLEY: No, we will have nothing taken off.

MR. SIMPSON: Then I ask to have the part I read only marked for identification.

(It is marked Defendant's Exhibit 1 for Identification).

THE COURT: And you may offer it in evidence now, or later in this case, if you see fit.

MR. O'MALLEY: Well, I am entirely willing to have it go in now. Do you object, Mr. Simpson.

MR. SIMPSON: Well, I'm doing this, if your Honor please, I'm doing the best I can under adverse circumstances, and I believe, at this time, that that is all I want, and so much of that paper which I have read is now in evidence, has been read into the record. If the District Attorney desires to offer any other part of that testimony, he may do it later,

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upon re-direct.

THE COURT: Just as you see fit.

MR. McCLELLAND: Now, this evidence, as it has been read, is undoubtedly in the record, and must remain there.

THE COURT: Certainly. And you may offer the paper in evidence, later, if you desire, or at any time that you wish.

MR. McCLELLAND: Yes, sir, but it has been read in the record, the part that we want, all that we want.

MR. O'MALLEY: Very well. Then it may be marked only for identification now.

THE COURT: Yes, it may be marked for identification only.

MR. McCLELLAND: Well, I would like your Honor to take judicial cognizance of the fact that this is a paper which the District Attorney very kindly furnished us, just now, and we have read a portion of it into the ~~main~~ record, and it is not as a part of the record.

THE COURT: Yes. You have on the record certain questions and answers which she subscribes to, but the paper itself you have not in evidence. You may or may not offer it, as you please, and I will take

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it, if you offer it.

MR. O'MALLEY: Now, do I understand, your Honor, that the paper from which Mr. Simpson has read, is offered in evidence?

MR. SIMPSON: No, sir, I don't. It has been read into the record.

MR. McClelland: Yes. And it was loaned us very kindly by you, in the interests of justice.

MR. O'MALLEY: Thank you.

MR. SIMPSON: That's all.

RE DIRECT EXAMINATION BY MR. O'MALLEY:

Q Now, you were called to the stand, that morning, Catherine; weren't you? A Yes, sir.

Q And do you remember having this statement made to you on the -----

MR. SIMPSON: Pardon me, Mr. O'Malley. You haven't got another copy of that; have you?

MR. O'MALLEY: Yes; here is another copy.

BY MR. O'MALLEY:

Q "Q. Catherine Connors, recalled as witness by Coroner Hellenstein, testified as follows: By Mr. Breckenridge:

Q. Don't you be frightened here. If there is -----"

MR. SIMPSON: I object to this line of inquiry,

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on the ground that it is incompetent, immaterial, and irrelevant, and not binding as against the defendant.

MR. O'MALLEY: It is all a part of the same proceedings, when the witness was on the stand, that morning at the inquest.

MR. SIMPSON: Pardon me. There is no evidence before the Court that there was an inquest in this case.

THE COURT: You have here, Mr. O'Malley, violent contradictions on the part of this witness.

MR. O'MALLEY: Yes, sir, that's right.

THE COURT: Made in different places, under oath.

MR. O'MALLEY: Yes, sir.

THE COURT: Now, you may ask generally what the facts are, and what the reason of her making these conflicting statements was, if you desire to.

MR. O'MALLEY: Yes, sir, I intend to do that. But I intended to cover the rest of the examination first. I will withdraw that question.

BY MR. O'MALLEY:

Q Now, why did you testify in the Coroner's Court, Catherine, that you didn't recognize who it was that fired the shots?

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MR. SIMPSON: I object to that as immaterial, irrelevant and incompetent, and calling for a conclusion.

MR. O'MALLEY: She has a right to explain her testimony, your Honor, under all the rules. If you want me to go through the whole examination, I will do so.

THE COURT: No, there is a direct contradiction here. She says here that she saw certain persons, and that she saw them plainly, and saw the side of the defendant's place, and saw him putting a pistol in his pocket, as he was going towards Eleventh Avenue; and in the other statement she said she did not see him, and did not recognize him. Now, you may ask her why she makes these two conflicting statements, if you desire.

BY MR. O'MALLEY:

Q Now, why did you make these two conflicting statements, Catherine?

MR. McCLELLAND: We object to the form of the question and to the question.

THE COURT: Overruled.

MR. McCLELLAND: Exception.

A Well there was talk going around the block ----

MR. McCLELLAND: Objected to.

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THE COURT: Overruled.

MR. McCLELLAND: Exception.

BY MR. O'MALLEY:

Q Well, go ahead. A Some talk was going around the block that, if Dan O'Leary got put in prison on my accord —

MR. McCLELLAND: I object to that.

THE COURT: Overruled.

MR. McCLELLAND: Exception.

A (Answer continued) They would do something to me.

MR. McCLELLAND: I object to that and move to strike it out.

THE COURT: Motion denied.

MR. McCLELLAND: Exception.

THE COURT: You may probe into it when it comes to your time.

MR. McCLELLAND: Yes, sir, Thanks.

BY MR. O'MALLEY:

Q And for that reason you testified differently in the preliminary hearing before the Coroner from what you testified <sup>to,</sup> here, today?

MR. McCLELLAND: Objected to.

THE COURT: Overruled.

MR. McCLELLAND: Exception.

A Yes, sir.

BY MR. O'MALLEY:

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Q And now, do you recall that, at the same time, after you were recalled to the stand there, being asked certain questions? A Yes, sir.

Q Do you remember this question: "Q. Do you understand what the truth is? A. Yes, sir." Do you remember that? A Yes, sir.

Q And were you asked: "Q. Are you going to tell us the truth, the whole truth, and nothing but the truth? A. Yes, sir."

THE COURT: Was this on the same day?

MR. O'MALLEY: Yes, sir.

BY MR. O'MALLEY:

Q (Question repeated) A Yes, sir.

Q And were you then examined by Mr. Breckenridge: "Q. Now, will you tell us again what you saw in 52nd Street, the night of July 8th? A. (Crying) I was walking down the block. I was attracted by the <sup>crowd</sup> quarrelling down there -----"

MR. McCLELLAND: Now, one minute. I merely ask for information. Does the record read "Crying"?

MR. O'MALLEY: It does. It is in a parenthesis.

MR. McCLELLAND: Well, is that her language?

MR. O'MALLEY: No, it is the stenographer's language.

MR. McCLELLAND: Then I ask that ~~hit~~ be stricken

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out.

THE COURT: Yes, motion granted. Strike it out.

MR. SIMPSON: May I ask to have this appear on the record? I want to show first, when the second alleged statement was being made, whether Daniel O'Leary, the defendant, was there.

MR. O'MALLEY: I will ascertain that right away.

BY MR. O'MALLEY:

Q He was there, was he not? A Yes, he was there.

Q Now, did you make this statement: "I was walking down the block. I was attracted by the crowd, quarreling down there. We didn't pay any attention to it. We walked ahead. When we got as far as Eleventh Avenue, there by the drug store, we were attracted by screams. We walked up on the other side, and, at the first high stoop, we stood, and saw the shots fired. We followed Collins up the block and some unknown friends --- I think they were friends of Collins --- assisted him near the corner, and they took him in a peddling wagon up to the hospital,

Q, Well, tell us everything that happened, all about it? A. That, s all I know. I told everything there.

Q. Did you see the man that was shooting? A. He was standing there. I saw his face, yes.

Q, You did see him? Who was he? A. That fellow there

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(pointing to the defendant, Daniel O'Leary).

MR. BRECKENRIDGE: That is all I will do at this time.\*

MR. O'MALLEY: And it was adjourned to 12:10 P. M.

BY MR. O'MALLEY:

Q Then you did testify in the Coroner's Court that you saw Daniel O'Leary fire the shots? A Yes, sir.

Q And you have given the reasons why you have testified differently when you were first called to the stand?

A Yes, sir.

MR. SIMPSON: I object to the reasons why she testified then.

THE COURT: I will sustain the objection, because we already have it. Now, you may take this matter up fully, if you desire to ask any questions about it.

MR. SIMPSON: No, sir, I will rest upon my exceptions.

THE COURT: Very well. If you think you are discharging your duty to the defendant, you may do so.

MR. SIMPSON: I do, fully.

THE COURT: Very well.

MR. McCLELLAND: One moment. May I ask just one

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question?

THE COURT: Yes.

RE CROSS EXAMINATION BY MR. McCLELLAND:

Q After you had made this statement that you now say is false, Miss, who spoke to you after you had finished first? A Do you mean over in the Coroner's Court, who spoke to me?

Q Yes, who spoke first to you after you signed that statement?

MR. O'MALLEY: I object to that. It doesn't appear that there was any signed statement.

BY MR. McCLELLAND:

Q Well, after you made the statement, who did you speak to first about that? A Well, I don't quite understand that question.

Q Well, I'll make it clear. You made a statement which had been read here to you, which you say is false?

A Yes, sir.

Q Now, just as soon as that statement was finished, what did you do? A Why, I went into another room, and I was sitting there ----

Q Eh? A I went into another room.

Q Tell us just what you did. You went into another room? A Yes, sir.

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Q And who did you see in there? A Lieutenant Rier.

Q Who else? A That's all I knew. There was two other men there, but I didn't know them.

Q Did you have a conversation with the Lieutenant?

A Yes, sir.

Q And it was after that conversation with the Lieutenant that you made this other statement? A Yes, sir.

Q That the first statement was untrue and false; is that right? A Yes, sir.

Q How old do you say you are? A I am 16 years old.

Q 16 years old? A Yes, sir.

Q And you say this man, as you say, shoot and kill a human being? A Yes, sir.

Q And you made a statement there that you couldn't identify the man, that you couldn't see his face, notwithstanding the gravity and seriousness of that charge, you made that statement; did you? A Yes.

MR. McCLELLAND: That's all.

BY MR. O'MALLEY:

Q Catherine, you did sign a statement in the station house; didn't you? A Yes, sir.

Q The night you identified the defendant in the line-up there? A Yes, sir.

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Q And that was the one that was read by Mr. Simpson here, when he asked you if you answered certain questions in the Coroner's Court? A Yes, sir.

MR. McCLELLAND: I would like <sup>to</sup> inquire. Do you refer to the statement where she denies the identity now?

MR. O'MALLEY: No. She says she signed a statement in the station house, and it was read into the record. That is all.

MR. SIMPSON: That is all.

H A T T I E W E I H R, of 500 West 53rd Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q How is your name spelled? A My last name?

A Yes. A W-e-i-h-r.

Q And where do you live, Hattie? A 500 West 53rd Street.

Q With whom do you live? A My mother.

Q How long have you lived there? A Since May.

Q Of last year? A Yes, sir.

Q And have you any brothers or sisters? A Yes, sir.

Q How many? A Four.

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Q Is your father living? A No, sir.

Q Your father is dead? A Yes, sir.

Q Do you work any place? A Yes, sir.

Q Where do you work? A Dressmaking.

Q Dressmaking? A Yes, sir.

Q And where? A 45th Street and Fifth Avenue.

Q For whom? A J. Fields/

Q How long did you work them? A A year.

Q And were you working for them on July 8th of this year? A Yes, sir.

Q Now, you know Catherine Connors; do you? A Yes/

Q And how long have you known her? A I know her ever since I've been in 53rd Street.

Q How old are you? A 16.

Q Now, do you remember of having seen Catherine Connors on the evening of July 8th? A Yes, sir.

Q Of this year? A Yes, sir.

Q And you remember having gone down there to her house? A Yes, sir.

Q About what time in the evening did you go down there; do you remember? A It was about a quarter after eight or eight o'clock.

Q You didn't look at your watch; did you? A No, sir.

Q Now, then, you live on the block just back of her; do you? A Yes, sir.

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Q And then you came down there to her house? A Yes, sir.

Q What did you do when you got there? A Well, I went to her house and called for her, and we took a walk around the corner.

Q Tenth Avenue? A Yes, sir. And we come back again and she went into the lady's house on the ground floor, and had a drink of water, and we come out again/

Q Now, talk slowly and as loudly as you can, so that all these gentlemen can hear you. A Yes, sir. And then we took a walk down 52nd Street, and there was a crowd of fellows down by the garage, quarreling down there, and we didn't pay no attention to them, and walked straight down Eleventh Avenue, and heard the people screaming, and we came back on the south side, and stood in some doorway, and seen the fellow shooting the other fellow.

Q Now, you say you went to a doorway. What<sup>do</sup>/you mean? A Well, it's about 560.

Q 560? A Yes, sir.

Q Well, did you go into the doorway? A No, sir, we stood about two or three steps up.

Q Three steps up? A Yes, sir, on the stoop.

Q In front of 560? A Yes, sir.

Q And what did you see when you got there, and where

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did you see it? A Well, right across the street, we saw this other fellow shooting, shooting the other fellow. He was laying down at this doorway.

Q Who was laying down at the doorway? A Collins.

Q And can you indicate to the jury by standing up about how you mean he was down, lying down? A Well, like this (illustrating). He was laying here, and this other fellow was standing here (indicating).

Q Well, show the jury. Could you kind of crouch down, and show the way Collins was? A No, I couldn't.

Q Well, all right, then. Collins was down then, you say, how far from the foot of the steps leading up into that house? A About the first one down, he was laying.

Q The first one down? A Yes, sir.

Q Down at the bottom of the steps, do you mean?

A Yes, sir.

Q And you saw a man shooting him; did you? A Yes, sir.

Q Now, where was that man? Was he on the sidewalk, or on the street? A On the sidewalk.

Q Did you see any other persons on the sidewalk?

A Not near him, but up further, where the people were.

Q Now, what did you see the man that did the shooting do? Can you stand up and tell us exactly? Stand right up.

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A Well, the fellow was standing like this, and he fired five shots.

Q And did you see the revolver? A Yes, I could see it shining.

Q Shining? A Yes, sir. And I saw the flashes.

Q Saw the flashes? A Yes, sir.

Q Now, do you know who that fellow was? Did you know at that time who was the man that was firing the shots? A No, sir.

Q Will you describe a little more fully his appearance? Did you notice anything about his hands?

A Yes, sir.

Q Now, tell the jury what you noticed? A He had a bandage on his left hand.

Q He had a bandage on his left hand? A Yes, sir.

Q What colored bandage? A A white bandage.

Q And did you notice where he went after he fired the shots? A He went down towards Elvenenth Avenue, but I don't know where he went to after that.

Q I see. Now, do you know whether or not — do you see anybody in court who fired the shots? A No, sir, because I didn't see his face.

Q You didn't see his face? A No, sir.

Q Well, did you notice the color of hair he had?

A Well, kind of blond. He was like a blonde.

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Q He had blond hair? A Yes, sir.

Q And he had a bandage on his left hand? A Yes, sir; and he had a straw hat on.

Q He had a straw hat on? A Yes, sir.

Q And, after the shots were fired, where did you go?

A I followed Collins.

BY THE COURT:

Q You didn't see the man's face? A No, sir.

BY MR. O'MALLEY:

Q Did you see any part of his face? A Well, like on the side, I could see (illustrating), but not his whole face, when he was standing there.

Q You saw the side of his face? A Yes, sir.

Q Now, you followed Collins; did you? A Yes, sir.

Q And went to the hospital? A Yes, sir.

Q With Catherine Connors? A Yes, sir.

Q And do you remember, when you got there, seeing the officer? A Yes, sir.

Q Officer Brown? A Yes, sir.

Q And did you have a talk with Officer Brown? A Yes, sir.

Q Did you give him your name? A Yes, sir.

Q And did Catherine give her name? A Yes, sir.

Q He took them down; did he? A Yes, sir.

Q And how long did you stay at the hospital? A I

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think it was about ten o'clock.

Q Now, do you remember the day that O'Leary was arrested? A No, sir, I don't.

Q Well, do you remember at any time having gone to the station house? A Yes, sir.

Q And when you got to the station house, what did you do, if anything? A Well, we had to pick the fellow out, but I couldn't pick him out.

Q You couldn't pick him out? A No, sir.

Q You went into the room where the line-up was, didn't you? A Yes, sir.

Q And how many men were in the line-up, if you remember? A There was about 12 or 15.

Q And did you see anybody in the line you knew? A No, sir.

Q You went in alone; did you? A Yes, sir.

Q Now, do you remember having been in the Coroner's Court? A Yes, sir.

Q You went down there with Catherine? A Yes, sir.

Q And made a statement there? A Yes, sir.

MR. O'MALLEY: If the Court please, may I suspend at this time, and call DR. Dowd?

THE COURT: Yes. Stand down.

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CHARLES NORTH DOWD, of 127 West 73rd Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q Dr. Dowd, you are a practising physician in this city? A Yes, sir.

Q And how long have you been a practising surgeon? A Since 1886.

MR. O'MALLEY: And I assume you do not question the Doctor's qualifications?

MR. SIMPSON: No, not the slightest.

BY MR. O'MALLEY:

Q Doctor, on July 13th of this year, you were head of the surgical staff of the Roosevelt Hospital; were you not? A Of one division.

Q Of one division? A Yes, sir.

Q And do you recall having performed an operation upon one Michael Collins on the 8th of July of this year? A I do.

Q And about what time in the evening was it, if you recall? A Well, it was in the evening, I couldn't say exactly when, but I would make a case that it was nine or ten o'clock.

Q And was Dr. Hildreth one of your assistants? A Yes, sir.

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Q And was Dr. King also there? A I presume he was, because he was one of the doctors on the staff then, but I don't remember exactly.

Q Now, will you describe what you did, Doctor?

A I found a man with a bullet in his side, and I opened the abdomen, and found a bullet had gone through the edge of the liver, and caused a large hemorrhage, and I searched such part of the abdomen as was necessary to see whether it had perforated any of the other organs, and I found that it had not. Then I closed the wound, after the hemorrhage was stopped, and sent him back to the ward.

Q And was it a successful operation, Doctor?

A Well, I don't know what you mean by a successful operation. The man didn't get well.

Q Well --- A Well, it was a success in the sense of saving the man's life, but it was an operation that was done in accordance with the ordinary procedures of surgery, and it was done with a view to save the man's life, and we did everything we could to save it, and didn't do anything that ought not to have been done.

CROSS EXAMINATION BY MR. McCLELLAND:

Q Where did you say the wound was? A In his right

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side.

Q Will you indicate to the Jury if you can, Doctor, about the location of the wound of entrance? A About there (Indicating). I may not indicate the precise location to the fraction of an inch, but I know it pierced the liver, that I remember.

Q And what was the direction? A Oh, well, I can't tell exactly, but it pierced the liver and went into the vein (Indicating).

H A T T I W A L L E R, being recalled to the witness stand.

CROSS EXAMINATION BY MR. SIMPSON.

Q Mattie, how long have you known Katie Connors?

A Well, I couldn't tell.

Q Some day of this year, isn't that right? A No, I know her a long time.

Q And you and she are pretty good chums? A Yes, sir.

Q True and a good friend? That is true, isn't it? A Yes, sir.

Q You go to school? A Yes, sir.

Q With Mattie? A Yes, sir.

Q You go to school together? A Yes, sir.

Q With Mattie? A Yes, sir.

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Q Quite frequently, don't you? A Yes, sir.

Q Whenever you get an opportunity, do you go in De-  
Witt Clinton Park with Katie? A Sometimes, not all the  
time.

Q You keep company? A No, sir.

Q Does Katie Keep company, do you know? A Not as  
I know of.

Q Do you know whether Katie and Collins were friend-  
ly? A No, not that I know of.

Q Now Katie---stand up, O'Leary---sit down, Katie,  
or Hattie, at least---did you ever see this defendant on  
the night of July 8th fire any shots at Collins? Yes or  
no? A No, sir.

MR. SIMPSON: That's all. Sit down, O'Leary.

RE-DIRECT EXAMINATION BY MR. O'MALLEY:

Q Just a moment. Could you pick out any man who  
fired the shots in this Court Room? A No, sir, because  
I didn't see the front of his face.

Q And so you don't know who did fire them? A No,  
sir.

RE-CROSS EXAMINATION BY MR. SIMPSON:

Q Oh, pardon me, Miss---stand up O'Leary. I now  
put this question to you, so that you might thoroughly un-  
derstand. On the night of July 8th, 1912, in this City,  
between Third and Eleventh Avenues, on the north side of

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52nd Street, did you see this defendant, with pistol in hand, fire at the man who you say you saw laying on the ground there? A I couldn't tell, because I didn't see all of his face, only the side.

Q Well, would you say that he is the man? (Indicating the defendant) A I couldn't tell.

Q This jury want to know. Is he the man?

MR. O'MALLEY: I submit that she has answered.

THE COURT: Haven't you this from here that she did not see the defendant fire a shot at Collins? What more do you want, counsel?

MR. SIMPSON: All right, sir. With your Honor's suggestion, that is all, Hattie.

MR. O'MALLEY: That's all.

MR. SIMPSON: Pardon me, Hattie. Will you just come back there for a moment?

BY MR. SIMPSON:

Q Do you remember Katie talking to her father that night? A Yes, sir.

Q And do you remember Katie having a little brother? A Yes, sir.

Q And do you remember her father sending her to the house, to take the child home? A Yes, sir.

Q What time was that, approximately? A It was before eight.

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Q Wasn't it after eight? You have to  
here, that it was about a quarter to eight whe  
not Katie? A Yes, it must have been a quarter  
eight, or something like that; I am not sure.

MR. SIMPSON: That's all.

AUGUSTUS HEALEY, of 529 West 52nd Street,  
a witness called on behalf of the People, being duly sworn  
testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q What is your business? A Well, I was in the  
saloon business, the last business I was in.

Q And where was your place of business? A 742  
11th Avenue.

Q How many doors is that from the northeast corner  
of 52nd Street? A It is two stores between that and the  
corner.

Q Well, this is the diagram (Indicating People's Ex-  
hibit 1). It is the fourth door from 52nd Street, on the  
east side of 11th Avenue, isn't it? A Yes, sir.

Q And were you in business there on July 8th of this  
year? A Yes, sir.

Q Do you know this defendant, Daniel O'Leary? A Yes  
sir.

Q Did he work for you? A Yes, sir.

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Q Did you know Collins, the deceased? A Yes, sir.

Q Do you remember Saturday evening, July 6th? A  
Yes, sir.

Q Do you remember Collins being in your saloon?

A Yes, sir.

Q O'Leary was there too, was he? A Yes, sir.

Q Now, will you tell us what occurred between O'Leary  
and Collins at that time? A Yes, sir, to the best of my  
ability.

Q Go on. A About 7:30 on that evening, July 6th,  
Collins and two friends, come in to my saloon and ordered  
drinks.

The defendant was after getting through work. My  
nephew was behind the bar.

He came to me and said, "There's a couple of the  
bunch. Will I serve them?" And I said, "By no means"  
and walked behind the bar. I went to them and I said,  
"Why do you insist upon coming in here when you know you  
are not served?" And they said, "We have money. Why not  
serve us?" And I said, "Because I don't want your trade".  
Well, they turned around, and they pointed at O'Leary and  
they said, "This is up to you, you prick."

Q And what did O'Leary say, if anything? A He said  
nothing whatever. With that, Collins struck him.

Q Just a moment. Do you recall O'Leary saying any-

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thing whatever? A He said nothing.

Q Do you remember his saying anything about wearing clothes? A That was afterwards.

Q Oh, go on. A Then he called him a prick, and with that struck him and knocked him down.

Q Who did? A Collins.

BY MR. MC CLELLAND:

Q Knocked who down? A The defendant. And O'Leary got up.

MR. McCLELLAND: I would request that the two children might be requested to go out of the Court Room now, your Honor?

THE COURT: They may sit in the back of the Court Room, or go out, as they see fit, just whatever they desire to do.

BY MR. O'MALLEY:

Q Go on. A O'Leary got up and took off his coat and Collins kicked him, and then he got up and took off his coat and they fought, and then someone says, "Here comes a cop."

Q Well, how long did they fight? A Oh, a couple of minutes. And, with that they run out.

Q Now, during the fight did either one---was either one knocked down? A Yes, sir.

Q Who was knocked down? A The defendant.

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Q And was Collins knocked down? A No, sir.

Q Do you recall having made a statement to me? A Yes, sir.

Q Do you remember this statement: "They fought for about ten minutes, O'Leary knocking Collins down two or three times." A They weren't in the store ten minutes.

Q Well, do you remember making that statement? A No, sir; I didn't.

Q Does that refresh your recollection as to what you told me? A That's the best I can remember.

Q Well now, anything further after that? A Well, they went out.

Q Who went out? A The three of them.

Q Well, what about anything---did anything happen to the hand of either of them? A Yes, the defendant hurt his thumb and went and had it dressed.

Q The defendant hurt his thumb? A Yes, sir.

Q Do you remember now which thumb it was? A I really couldn't say, but I think it was the right hand.

Q Do you know where he went and got it dressed, that is, personally, I mean? A No, I don't.

Q When did you next see him? The same night? A I saw him Sunday morning.

Q Did he have his finger dressed at that time? A No, I couldn't say. He had it in his coat, I believe.

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Q Well, did you see anything on his hand? A No, sir; I didn't.

Q Did you see O'Leary the following day? That was Sunday? A Sunday?

Q Yes? A Yes.

Q Eh? A Yes.

Q Did you see him on Monday, the 8th? A Yes, sir.

Q Was he working Sunday? A Sunday?

Q Yes? A No, sir.

Q Did he work Monday? A No, sir.

Q Well, what time did you see him on Monday? A On Monday evening, he came into my store, about half past seven o'clock.

Q Who was with him? A Golden, I think his name is

Q Cornelius Golden? A Yes, sir.

Q Now, at that time did you notice his hands? A I noticed his hand was in his coat. That's all I know. I don't know whether it was bandaged or not. He carried it like in a sligg, and used his coat for a sling.

Q And didn't you see anything on his hand? A No.

Q How long did they stay there at that time, O'Leary and Golden? A Perhaps for half an hour.

Q Did you have any talk with him then? A Yes, sir, he asked me if his job---

Q Never mind that. Did you have a talk with him?

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A Yes, sir. He asked me if his job was good, and I told him yes, as soon as he was ready to go to work.

Q And did he say why he didn't go to work that night?

A Yes, sir.

Q Why was it? A His hand.

Q Then Golden and O'Leary left, did they? A Yes, sir.

Q Do you know where they went? A I couldn't swear so.

BY THE COURT:

Q That was about seven thirty did you say? A No, sir; about eight o'clock.

Q About eight o'clock? A Yes, sir.

BY MR. O'MALLEY:

Q I understood you to say that it was about a quarter to eight when they came in? A Well, sir, between half past seven and a quarter to eight.

Q Between half past seven and a quarter to eight?

A Yes, sir; I couldn't exactly tell you the right time.

Q Well, did O'Leary work for you after that night?

A No, sir.

Q Well, did you see O'Leary after the shooting or again that night? A Again that night, after the shooting

Q Yes? A No, sir.

Q Did you see Golden? A No, sir.

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Q Did you hear any shots that night? A Yes.

Q How many? A Three or four; I wouldn't like to say which, because I ain't sure.

Q Now, what did you do after you heard the shots?

A I walked out to my front door, naturally, to see what the trouble was.

Q Did you see anyone there then? A Not at the time. At 52nd Street I saw a crowd.

Q Are you sure that you didn't see O'Leary? A Yes, I saw him after that.

Q Do you remember this statement: "I heard four or five shots. I went to the front door of the saloon. I saw O'Leary having a hold of Golden's arm and coming around from 52nd Street towards my saloon." A Yes. I saw that. And I saw Golden with his handkerchief up to his forehead.

Q And where did O'Leary go? A He wanted to come in my store, and I told him to take Golden right up to the Hospital, when he told me he was shot.

Q Now, between the time that Golden and O'Leary left your saloon, until the time that you heard the shots, did O'Leary come back to the saloon? A He did not.

Q Are you sure of that? A I am sure of that.

MR. O'MALLEY: You may examine.

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## CROSS EXAMINATION BY MR. SIMPSON:

Q Did you see the defendant O'Leary every day after the shooting? A Yes, sir.

Q Did he report to your place? A Every day.

Q You are the person who subsequently told him that an officer was looking for him, wanted to see him? A Yes, sir.

Q Did you make the appointment between the officer and the defendant? A Yes, sir.

Q And at that time did you know that the defendant was wanted for any shooting of Collins? A Not until the day previous of when he gave himself to the officer.

Q Not until the day previous to when he gave himself to the officer? A Yes, sir.

Q And that was what day, do you know? A Well, I really couldn't explain what day it was he gave himself up.

Q If I were to say to you that it was the 27th day of July---A After that.

BY THE COURT:

Q You saw him every day in your place of business after the 8th of July up to that time, did you? A Yes, sir.

BY MR. SIMPSON:

Q From the 8th day of July until the day of his

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arrest, did you know that it had been charged that he, O'Leary, was wanted for the killing of Collins? A No, sir.

Q How long had the defendant worked for you, Mr. Healey? A About three months.

Q And during that time you had opportunity to observe him? A Yes, sir.

Q And you knew others who knew him? A Yes, sir.

Q Do you know what his reputation in that community at that time was for peacefulness, honesty and truthfulness? Was it good or bad? A Very good.

Q Did you see Golden's face at the time that you say you saw the defendant leading him by the arm by your store, on the night of July 8th? A He had a handkerchief up to his forehead. I couldn't see what his face looked like at all, but the blood was running down here (Indicating) and he had the handkerchief pressed to his forehead.

Q You have stated to the Court that, between half past seven and a quarter to eight, the man Golden and O'Leary came into your place? A Yes, sir.

Q That was prior to the time you heard the shots? A Yes, sir.

Q How long a time elapsed before the time you heard the shots, if you can tell us, and the time that O'Leary--- when you first seen O'Leary on that particular night?

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About what time elapsed?

MR. O'MALLEY: What is the question, please?

I can't understand it.

MR. SIMPSON: I withdraw the question.

BY MR. SIMPSON:

Q You say he got in there between half past seven and a quarter to eight? A Yes, sir.

Q How long did he remain in your place, about?

A About twenty minutes.

Q And are you sure that he left your place after eight o'clock?

MR. O'MALLEY: Objected to.

BY MR. SIMPSON:

Q Was it after or before eight o'clock? A About eight o'clock.

Q About eight o'clock? A Yes, sir.

Q With Golden? A Yes, sir.

Q Do you know how far a distance it is from your store to the northeast corner of 52nd Street and 11th Avenue? A About seventy-five feet, I should judge.

Q About seventy-five feet? A Yes, sir.

Q Did you go out of your store, that evening, at all?

A After the shooting, yes.

Q Now, did you know the deceased, Collins? A I did, yes, sir.

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Q Did you know his reputation---

MR. O'MALLEY: I object to this at this time.

MR. SIMPSON: I haven't finished my question.

BY MR. SIMPSON:

Q (Continued) Do you know what his reputation is or was---

MR. O'MALLEY: Now, don't answer this. I object.

MR. SIMPSON: I haven't finished the question.

BY MR. SIMPSON:

Q (Continued) For peace and honesty in the community at this time?

MR. O'MALLEY: Objected to. I submit it is not admissible at this time. It may come in properly later.

THE COURT: Sustained.

MR. SIMPSON: Exception. That is all.

MR. O'MALLEY: That is all. Shall I take up another witness now, your Honor? It is the recess time.

THE COURT: No. We will take a recess now.

(The Court then admonished the jury in accordance with section 47 of the Code of Criminal Procedure and took a recess until 2 o'clock P.M.).

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## A F T E R        R E C E S S .

P A T R I C K     J .     M O R G A N , of 445 West 53rd Street, a witness called on behalf of the People, and being duly sworn, testified as follows:

## D I R E C T   E X A M I N A T I O N   B Y   M R .   O ' M A L L E Y :

Q    Do you remember Monday evening, July 8th of this year, when there was a crowd in Tenth Avenue, going north? Do you remember that?    A    Yes---well, there wasn't no crowd, you know.

Q    Well, do you remember being there; do you?    A    Yes.

Q    Where were you?    A    54th Street and 10th Avenue.

Q    54th Street and 10th Avenue?    A    Yes, sir.

Q    Was your attention attracted by anything?    A    By a lot of hollering, that 's all.

Q    What did you do?    A    I jumped on the side of a wagon.

Q    Who was in that wagon?    A    Well, when I got to the hospital, I seen Collins was in it.

Q    And did you go on with Collins to the hospital?

A    Yes, sir.

Q    Did you know Michael Collins at that time?    A    Yes, I seen him several times before and known him for a few years or so.

## B Y   T H E   C O U R T :

Q    You knew who he was and what his name was?    A    Yes,

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Honor.

THE COURT: Yes, I think so, at this time.

MR. SIMPSON: I take an exception if your Honor please. The defendant respectfully excepts.

THE COURT: Of course, you except, but you may put in this kind of proof if it comes to the point of necessity, later.

MR. SIMPSON: Well, I have never seen this witness, and don't know him. I have never spoken to him in my life, and I am trying to get from him the general character of the deceased.

THE COURT: Well, you know your duty in the premises. I am not here to give you any instruction or suggestion, but I must sustain the objection.

MR. SIMPSON: Very well then, I respectfully except.

RE-DIRECT EXAMINATION: BY MR. O'MALLEY:

Q Was anybody with you that night, any man or young fellow? A No, sir.

Q You were alone? A Yes, sir.

MR. McCLELLAND: Do you refer to the night of the homicide?

MR. O'MALLEY: Yes. I was referring to the night of the homicide. That's all.

THE COURT: Stand down.

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THOMAS JOSEPH GOGAN, of 546 West 51st Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q Where were you living on July 8th of this year?

A 546 West 51st Street.

Q The same place? A Yes, sir.

Q And where were you working? A 541 West 52nd Street.

Q What place of business was that? A The Sampson Motor Truck Company.

Q That is a garage? A Yes, sir.

Q On the north side of 52nd Street, east of 11th Avenue? A Yes, sir.

Q What number of the street is it? A 541.

Q How long had you been working there? A About nine months.

Q And were you working there on the evening of July 8th, when there were some shots fired out there on the street? A Yes, sir.

Q Where were you at the time? A In the garage.

Q Did you hear some shots fired? A Yes, sir.

Q How many? A About four.

Q And after they were fired, what did you do? A I came out to the door.

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Q Of the garage? A Yes, sir.

Q And did you look in any direction? A I looked towards 11th Avenue.

Q And what did you see? A I saw a crowd.

Q And what else did you see? A That's all I see, a crowd.

Q Did you see anybody go by? A Yes, I see a crowd go by.

Q Who was in the crowd? A The man that got shot.

Q Did you know his name? A Yes, Mike Collins.

Q How long had you known him? A Twenty years.

Q Had you seen him before, that same evening? A No, sir.

Q Had you seen him around there, in front of the garage, in the early part of the evening? A No, sir.

MR. O'MALLEY: That's all.

MR. SIMPSON: No questions. Yes, I will ask one question.

CROSS EXAMINATION BY MR. SIMPSON:

Q You say you have known Collins for twenty years?

A Yes, sir.

Q Within the last four years have you seen him frequently? A Yes, sir.

Q Two years ago did you see him frequently? A Two years ago?

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Q Yes? A Well, I can't vouch that I seen him.

THE COURT: What is the purpose of this? I am afraid you are coming soundly within my ruling.

MR. SIMPSON: Very well. No questions.

DOROTHY GOGAN, of 546 West 51st Street, a witness called on behalf of the People, being duly sworn testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q Are you the wife of the previous witness, Thomas Gogan? A Yes, sir.

Q And you were living at that address on July 8th of this year, were you, with him? A Yes, sir.

Q Now, do you remember the early evening of July 8th? A Yes, sir.

Q Did you at that time on that night come to the corner of 52nd Street and 11th Avenue? A Yes, sir.

Q Which direction did you come from? A From around the 51st Street corner, and come up Eleventh Avenue.

Q On which side of the Avenue? A The east side of the avenue.

Q Now, as you were going---where were you going? A Through 52nd Street to the garage, with my husband's supper.

Q And who was with you, if anybody? A My two little

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children; that's all.

Q Now, as you were going through there, what attracted your attention, if anything? A Well, I seen a crowd, as I got near the corner.

Q Yes? A And, as I got to the corner, I heard few shots.

Q Yes? Now, how far up 52nd Street had you got when you heard the shots, about how far? A Well, this is the corner, say; and I was over to where that chair is. (Indicating).

Q Now, I show you People's Exhibit 1 in evidence, which is a diagram of 52nd Street and 11th Avenue. As I understand it, you came from the south and turned on the south side of 52nd Street towards the east? A Yes, sir.

Q And that is the automobile garage where your husband works? A Yes, sir.

Q And you turned to go towards the garage? A Yes, sir.

Q And where were you when you heard the shots? A A few feet from the corner of 11th Avenue.

Q Now, wait a minute. You heard the shots? A Yes, sir.

Q From which direction did they come? A On the up-town side of the street.

Q Were they west or east of you? A Well, I could-

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n't tell exactly, because I kept walking ahead.

Q When you heard the shots, did you look over? A  
It was towards 11th Avenue, and, when I heard the shots, I  
looked over and saw the crowd.

Q And the crowd was more towards 11th Avenue than  
you were? A Yes, sir.

Q Did you see anyone in the crowd that you knew?  
A No, sir.

Q About what time was it? A Well, it was around  
eight o'clock, between eight and nine o'clock.

Q Well, tell us about the conditions on the street  
at that time? A Well, it was between light and dark.

Q Could you see across the street, could you see  
faces? A Well, I seen a crowd, and I kept on walking  
with the children, because I was afraid and I didn't pay  
any attention to the crowd.

Q And did you see anybody walking away from where the  
crowd was? A Well, I seen a crowd walk towards Tenth  
Avenue and a crowd walk towards Eleventh.

Q And in the crowd that walked towards 10th Avenue,  
did you see anybody in particular? A Well, there was  
somebody lame, that walked in that crowd, and a crowd behind  
him.

Q Did you see who it was? A No, sir.

Q How many shots did you hear? A Four.

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Q And can you tell the jury how quickly they were fired, by clapping your hands? A Oh, they were quick (Illustrating).

Q Like that? A Yes, sir.

Q In rapid succession? A Yes, sir; like one after the other.

BY THE COURT:

Q And when you say four, that is an estimate, is it not? You couldn't say whether there were three or five or seven, could you? A Well, yes, I counted them.

Q You counted them, did you? A Yes, sir.

BY MR. O'MALLEY:

Q And then you went to where your husband was? A Yes, sir, kept on walking ahead.

Q Did you know Michael Collins in his lifetime, the dead man? A No, sir, I never knew him?

Q Or did you know the defendant O'Leary at that time? A No, sir, I never knew none of them.

CROSS EXAMINATION BY MR. SIMPSON:

Q Only one question, Mrs. Gogan. Stand up, O'Leary. You saw a man going away from the crowd towards 11th Avenue?

A Yes, sir.

Q Was it this defendant? A No, sir; I don't know him, no, sir.

Q Did the man that you saw go away look like him?

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A Well, I couldn't tell you, because there was a crowd behind him, and I don't know what man it was.

Q Well, it was between light and dark there, wasn't it? A Yes, and I didn't pay no attention, but kept on walking ahead.

Q But you saw that man going away? A Yes, sir.

Q And was the man that you saw going away this defendant, O'Leary? A No, sir.

RE-DIRECT EXAMINATION: BY MR. O'MALLEY:

Q Do you mean---do you know whether it was or not?

A No, sir, I don't know who it was, because he walked ahead and there was a crowd behind him, so I didn't look.

Q So you don't know whether it was O'Leary or who it was? A No, sir, I wouldn't know who it was.

MARTIN S. O'NEILL, Detective Bureau, 26th Precinct, witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q How long have you been an officer of the Municipal Police Force? A About six years.

Q And you were attached to the 26th Precinct, Detective Bureau, on the 8th of July of this year? A I was.

Q And how long had you been there, Officer? A About a year previous to that.

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Q Now, do you remember the evening of July 8th having gone to the Roosevelt Hospital? A I do.

Q What time did you go there, about? A About 10 P. M.

Q And when you got there whom did you see? A I saw Officer Brown and the two girls, and then I saw the deceased.

Q Michael Collins? A Yes, sir.

Q Where was he then? A He was in the ward on the ground floor.

Q Now, did you have a talk with him? Yes or no? A Yes.

Q And who were the two girls that you saw? A Why, Catherine Collins---

Q Collins? A No, sir, Connors, I mean, and the Weihr girl.

Q Hattie Weihr? A Yes, sir.

Q And did you have a talk with them, yes or no? A Yes, sir.

Q Now, after you talked with them, what did you do? A I went and saw the deceased, Collins.

Q And you say you had a talk with him? A Yes, sir.

Q And after that what did you do? A I came out again, and saw the two girls again.

Q Yes. And then what did you do? A I got a des-

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cription---

MR. McCLELLAND: One moment. I object to that.

MR. O'MALLEY: I am not asking for what they  
said.

BY MR. O'MALLEY:

Q Did they describe anyone to you?

MR. McCLELLAND: I object to that as calling for  
a conclusion.

THE COURT: Overruled.

MR. McCLELLAND: Exception.

BY MR. O'MALLEY:

Q Did they? A Yes, sir.

Q Now, after they had described some one to you,  
what did you do? A I then went back to the station  
house.

Q Yes, and whom did you see there? A Previous  
to that, the lieutenant here and another officer was with  
me.

Q Who was the other officer? A Acting Captain  
Gloster.

Q And when did---when you got back to the station  
house, did you see any other officer? A Yes, later I  
did.

Q Who was that? A Detective Lennon.

Q What is his full name? A Edward Lennon.

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Q Is he attached to the same precinct and Detective Bureau as you are? A Yes, sir.

Q And did you have a talk with Detective Lennon?  
A Yes, sir.

Q In regard to this case? A Yes, sir.

Q And did you give him any information? Yes or no?  
A Yes.

Q Including this description? A Yes, sir.

MR. McCLELLAND: If your Honor please, I object to this line of examination. It is insinuating and suggestive, and it is unfair, and it is incompetent and immaterial and objectionable generally.

THE COURT: Overruled.

MR. McCLELLAND: Exception.

BY MR. O'MALLEY:

Q And then, Officer, what did you do then? A I then started to look for the man whose description I got from these two girls.

Q And where did you go? A I went in the vicinity of Tenth Avenue and 52nd Street and all around that neighborhood there on the west side.

Q Yes? A From 50th Street and up to about 60th Street, and went into the different cafes.

Q Now, at the time you started out from the station house, did you have the name of the man that you were look-

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ing for? Yes or no? A No, sir.

MR. McCLELLAND: Your Honor will understand the continuous exception here to this line of testimony?

THE COURT: Oh, I think you had better object to anything that you think is improper. Overruled.

MR. McCLELLAND: Exception. I didn't want to be jumping up every moment.

BY MR. O'MALLEY:

Q Where else did you go, if anywhere, that night, Officer? A We went into the different cafes in that location, where this shooting had occurred.

Q And how long did you stay on the streets in that neighborhood, that night? A Until about two o'clock the next morning.

Q Did you make any arrests that night? A No, sir.

Q Now, were you specially assigned to this case? A No, sir.

Q And after that time did you do any special work on it yourself? A Yes, sir.

Q And what did you do? Will you tell us? A I continued to look for this man whose description I had got from these two girls.

Q And how long did that continue, do you say? A Up to the time of the arrest.

Q Did you go any other place? A Well, we kept

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looking in that vicinity, every night'.

MR. O'MALLEY: That's all.

CROSS EXAMINATION BY MR. SIMPSON:

Q Now, Officer, you know that there was never an arrest in this case, don't you? A I know that the defendant was arrested.

Q You know that he was arrested? A Yes, sir.

Q Don't you know that he surrendered himself to Officer Fitzpatrick? A Well, I know that, when he was brought to the station house, the arrest was entered on the blotter, and that's all I knew about the arrest in this case.

BY THE COURT:

Q Now, can't you answer the question? Do you know whether he was arrested or whether he surrendered himself?

A That I don't know.

Q Wouldn't such a thing as that be put upon the blotter, if a person went to the station house and gave himself up? A He would be just put down as a detained prisoner.

Q No, wouldn't he be put down on the blotter if he was arrested? A Yes, sir.

MR. SIMPSON: That's all.

RE-DIRECT EXAMINATION BY MR. O'MALLEY:

Q I want to understand you to say that the defendant

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came to the station house, did I? A That I don't know.  
if  
When he came in, /he came in, I wasn't there.

E D W A R D J . L E N N O N , of the 26th Precinct, a  
witness called on behalf of the People, and being duly  
sworn, testified as follows:

DIRECT EXAMINATION: BY MR. O'MALLEY:

Q How long have you been an officer of the Municipal  
Police Force? A Ten years.

Q And were you attached to the 26th Precinct Detec-  
tive Bureau on July 8th of this year? A Yes, sir.

Q And how long had you been assigned there then?  
A Since April.

Q Do you recall the evening of July 8th having gone  
to Roosevelt Hospital? A Yes, sir.

Q Prior to that time had you been assigned to any case?  
A Yes, sir.

Q What case? A Prior to July 8th?

Q Well, prior to going to the hospital? A Oh, I  
was doing general detective work in the precinct.

Q And you were sent over there? A Yes, sir.

Q And when you got over there, whom did you see? A I  
saw Michael Collins.

Q Where? A At the Roosevelt Hospital.

Q And did you have a talk with him? Yes or no? A I

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did.

Q And after that talk, did you see any other officers there? A I saw Officers Owen and Brown, and I saw the two girls, Catherine Connors and---

Q Hattie Weihr? A Hattie Weihr.

Q What did you do then? A I had a conversation with Michael Collins there at the hospital.

Q Yes. Well, you can't tell about that, because the defendant wasn't there. After having that conversation where did you go? A Why, I went back to the precinct.

Q Yes? A The Precinct station house.

Q Now then, tell us what you did? A Why then, we got some information about the man who did the shooting. They said he was about five foot eight and had a bandage on his hand.

MR. McCLELLAND: I object to this, if your Honor please.

THE COURT: Yes, objection sustained, and strike it out.

BY MR. O'MALLEY:

Q Well, you got a description of the man you were looking for? A Yes, sir.

Q And from whom did you get it? A From the girls Catherine Connors and---

Q Well, did you start to look for anybody? A Yes,

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sir.

Q Whom did you start out to look for? A We started out to look for a man named O'Leary.

Q And where did you go? A We visited all the saloons on 9th and 10th and 11th Avenues, from 50th Street to about 60th Street.

Q And did you get any house address of the man that night? A No, sir.

Q And how long did you work on the case? A Until July 16th.

Q Specially assigned to it? A No. In among other work.

Q Well, you were assigned to the case, among other work? A Yes, sir.

Q And after the 16th, what did you do? A Why then I went on another case.

Q On another case? A Yes, sir; the Rosenthal case.

Q And you had nothing to do with this case after that? A No, sir.

Q Now, between the 8th and 16th, did you find any trace of the defendant? A No, sir.

MR. O'MALLEY: That's all.

CROSS EXAMINATION: BY MR. SIMPSON:

Q Lennon, you got word, and went to Roosevelt Hospital

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is that right? A Yes, sir

Q And when you got there, you say you met the Connors girl? A Yes, sir.

Q And then you went in and saw Collins? A Yes, sir.

Q And what did Collins say to you? A Do you want the exact words?

Q I want the exact words. A I asked him what his name was.

Q Yes? A And where he lived.

Q Yes? A I asked him who shot him and he said, "Who are you?" And I said, "I am a police officer." "Well, he says, "there is nothing doing here, you can go frig yourself, I don't need your assistance."

Q Did you try to get from him the name of the person that done the shooting? A I did.

Q And that's what he said? A Yes, sir.

MR. SIMPSON: That's all.

RE-DIRECT EXAMINATION BY MR. O'MALLEY:

Q Did he say anything else that you now recall? A No; that's about all.

Q Do you recall his having said anything about when he got out, doing anything? A No; he said he didn't need any assistance off me.

Q That's what he said, is it? A Yes, sir.

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MR. O'MALLEY: That's all, Officer.

EDWARD O. BURGESS, Detective Bureau, 26th Precinct, a witness called on behalf of the People, and being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q How long have you been a member of the Municipal Police Force? A About four years and a half.

Q And you were attached to the 26th Precinct, Detective Bureau, on July 8th, were you? A I was.

Q And were you at any time assigned to investigate the shooting of one Michael Collins? A I was.

Q When, what date? A I think it was the morning of July 9th.

Q July 9th? A Yes, sir.

Q Now, will you tell us what you did? A Why, I went over in the vicinity of 52nd Street and 10th and 11th Avenues, and I believe on that day I received information that the defendant O'Leary---

Q (Interrupting) No, perhaps you had better not tell us what the information was. You received some information, did you? A I did.

Q In regard to whom? A The defendant O'Leary and Cornelius Golden.

Q And after that what did you do? A Then I tried

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to locate the defendant O'Leary or Golden, for a number of days, and made other inquiries.

Q Now, tell us what you did, Officer? A Well, on July 30th---

Q But before July 30th, where did you go? A Well, I received information that O'Leary---

BY THE COURT:

Q Where did you go? That was the question, and that was plain English.

BY MR. O'MALLEY:

Q (Question repeated) A Well, around the vicinity of 52nd Street, from 47th Street up to 60th.

Q Now, did you have any house addresses? A Yes, I had number 8 Amsterdam Avenue.

Q Now, Number 8 Amsterdam Avenue is where? A Between 59th and 60th Streets.

Q And below that point, the street is called what; Amsterdam Avenue below 59th Street is called what? A 10th Avenue, below 59th Street.

Q Now, did you go to 8 Amsterdam Avenue? A Yes, sir.

Q Did you find the defendant there? A No, sir.

Q Did you learn whether or not he was there? A No, sir, I learned that he wasn't. I learned that he had moved.

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MR. McCLELLAND: I object to that, to what he learned.

THE COURT: Yes, Objection sustained. Strike it out.

BY MR. O'MALLEY:

Q Do you know of your own knowledge how long before left that he had ~~lived~~ there? A No, sir; I don't.

Q Now, did you get any other address? A Yes, sir; 56th Street near 11th Avenue, but not the number.

Q Not the number? A No, sir.

Q Did you have any number that you recall now? A Not there. I went there and made inquiries.

Q And what number did you go to? A I went---well, I didn't go exactly to any number, but I inquired whether-- there is only one house near 11th Avenue on 56th Street, and that is on the downtown side, and I ascertained that he didn't live there.

MR. McCLELLAND: I object to that!

THE COURT: Sustained. Strike that out.

BY MR. O'MALLEY:

Q Well, you didn't find him there? A I didn't find him.

Q Did you at any time go to 507 West 56th Street? A I didn't go there.

Q Well, did you go to any house in that locality?

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A No, I didn't go to any house.

Q Well, go ahead, what else did you do? A I learned that he lived in 503.

Q 503 what? A West 56th Street.

MR. McCLELLAND: I ask, your Honor, that that be striken out, that he heard he lived at 503.

THE COURT: Objection sustained. Strike it out, and the jury will disregard it.

BY MR. O'MALLEY:

Q But you did go to the neighborhood of 503 West 56 Street, did you? A I did.

Q And how long after the 8th of July? A Well, possibly around July 24th or 25th? A Well, possibly five different times.

Q Well now, how many times what times of the day or night did you do there, day or night? A Well, I went over there in the evening, about six or seven o'clock and stayed until two or three o'clock in the morning, on one occasion; and I went there from around eight o'clock in the morning until around eleven, on another occasion; and I went there from two o'clock in the afternoon until dark, on another occasion.

Q Now, did you, at any of these times, see the defendant O'Leary? A No, sir.

Q Did you at any time go to a saloon? A Yes, sir.

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Q Where did you go? A I went to Frey's saloon on the northwest corner of 52nd Street and 10th Avenue and I also went to Healey's saloon.

Q Where is that? A Between 52nd and 53rd, on 11th Avenue.

Q That is on the east side of the Avenue? A Yes, sir.

Q Between 52nd and 53rd Street? A Yes, sir.

Q And did anybody go there with you or did you go alone? A Detective Fitzpatrick went with me.

Q And did you see the defendant there? A I did not.

Q How many times did you go there? A Well, I say I did not. I withdrew that. I didn't see him there, not the first time, but I went back there again, and was with Fitzpatrick when the defendant O'Leary was arrested on July 30th.

Q Where was he arrested there, isn't it? A Yes, sir.

Q What day was that when you placed O'Leary under arrest? A July 30th.

Q And where? A At Healey's, Healey's saloon, between 52nd and 53rd, on 11th Avenue.

Q And who was present? A Mr. Healey, and at that time, he was the owner of the saloon.

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Q Yes? A And detectives Fitzpatrick and Devanney and myself, and the defendant O'Leary and some others, may be.

Q Now, after the defendant O'Leary was taken into custody by the officers, what did you do, if anything?

A Why, Detective Fitzpatrick took the defendant O'Leary to the station house, and Detective Devanney and myself went over to a moving picture show, at 8th Avenue and 53rd Street and tried to locate Golden.

Q Well, did you locate him? A Yes, sir, later.

Q About what time? A Around the neighborhood of seven o'clock, that evening.

Q And after you located him, what did you do? A We arrested him and brought him to the station house.

Q Did you have any conversation with the defendant O'Leary at the station house, that night? A I did.

Q Personally, I mean? A No, not personally.

Q Did you hear any conversation? A I did.

Q Between O'Leary and whom? A Lieutenant Kiser, and Detectives Fitzpatrick and Devanney, and, I believe, Fitzsimmons.

Q Now, do you recall the substance of that conversation or do you not? A Well, I remember some parts of it.

Q Well, tell us what parts you remember? The de-

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defendant O'Leary participated in it, did he? He took part in it? A In the conversation, yes.

Q Now then, tell us what was said? A Why, O'Leary was told that he was arrested for this homicide, and he said that, on this day, July 8th, he had been up around 52nd Street and 11th Avenue, and he had met Cornelius Golda and that the two of them had been drinking during the afternoon, and towards evening they had gone down to the neighborhood of 52nd Street and 11th Avenue, down to Healey saloon, and that later they had left Healey's saloon and had gone around to 52nd Street, started east through 52nd Street, when they were accosted by the deceased, Collins.

Q Yes. Anybody else? Did he say anybody else accosted him? A And several others.

Q Yes? A And he stated that Collins had asked him for ten cents for a pint of beer and on his refusal, that a fight had started.

Q Yes. Go ahead. And he stated that Golden had fought with Collins and that they were in the act of fighting when these shots were fired, and he then left with Golden and went around to 11th Avenue again.

Q Now, do you remember---is that all the conversation that you remember with him? A That's about all I remember that I heard.

Q Well, do you remember his saying anything about

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his hands? A Yes, sir; he said that he had injured his hand in the fight that he had with Collins the Saturday before.---This was on Monday---that he had had an altercation with Collins in the saloon on Saturday and that one of his arms was injured in this fight and that he had gone to some hospital and had the arm bandaged, and he stated that it was bandaged at the time of the shooting, on Monday night.

MR. SIMPSON: Now, I move---pardon me---I ask not to have it go out to the jury that his hand was bandaged on the night of the shooting, Monday night, and I don't want it to go out to the jury that the shooting was done on the night he had his hand bandaged.

BY THE COURT:

Q He was telling you what he did, that night, the night of the quarrel between himself and Collins? A Yes, sir; but he made no admissions about any shooting, but he said his arm was bandaged on that night.

Q That is what he told you? A Yes, sir.

Q And that is what you want to represent to the jury that he said to you? A Yes, sir.

MR. O'MALLEY: You may examine.

CROSS EXAMINATION BY MR. SIMPSON:

Q Officer Burgess, did you ever go to Number 507 West 56th Street? A No, sir; I didn't.

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Q Didn't you know that the defendant lived there?

A No, sir; I did not.

Q The District Attorney has questioned you regarding 503 West 56th-Street. What is 503 West 56th Street? A

It is a tenement house.

Q What is it? A corner house or adjoining the corner? A Adjoining the corner.

Q Did you make any inquiries at 507 West 56th Street at any time? A Concerning this case?

Q Yes, concerning this defendant? A I did not.

Q Whether he lived there? A I did not.

THE COURT: I may be mistaken about it, but I understood him to say that he did not go to 503 West 56th Street.

MR. SIMPSON: And I so understood it. I may be mistaken.

THE COURT: Yes; but he said he didn't go there, but was about there.

MR. O'MALLEY: Yes, sir; that is his testimony.

BY MR. SIMPSON:

Q Did you go into 503 West 56th Street? A I did not

Q Did you go anywhere about there? A I did not.

BY THE COURT:

Q And of course you didn't stay there all the time, even on the occasions that you went there? A Well, I ---

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Q How much time did you put in in that general neighborhood? A On three different occasions I covered it, as I stated. I covered 503, for the purpose of seeing whether he came in or out, and also on the second occasion from seven o'clock one evening until around one or two o'clock in the morning, and on other occasions from possibly eight o'clock in the morning until around noon time, and then the first time that I have told about.

BY MR. SIMPSON:

Q Coming down to the 30th day of July, Officer, when you and your associate, Officer Fitzpatrick, entered Healey's saloon, what was the first thing that you personally said to him? A I don't believe I said anything to him.

Q Now, let me see if I can refresh your recollection. Didn't you say to him, "Gee, I didn't think it was you. I passed you a couple of times." A No, not with that meeting, no, I didn't make that remark.

Q What remark, if any, similar to that did you make? A I recall now that I did make a remark, when I met him, about telling him that I knew him and had known him for a long period of time, and that was what I said, and I also said that I was surprised that he should be mixed up in this thing, in this shooting.

Q That's what you said to him? A Yes, sir.

Q That you were surprised that he should be mixed

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up in this shooting? A I did.

Q Are you sure you didn't say to him, "Gee, I'm surprised that you should be mixed up in this shooting. I must have passed you a couple of times". A No, I didn't say that, positively.

Q You didn't say that, positively? A No, sir.

Q Now, did you know that this defendant made an appointment to meet both Fitzpatrick and yourself, at Healey's saloon? A I do.

Q Wasn't it at your request that this defendant came there and surrendered himself? A It was, I believe.

BY THE COURT:

Q Well, don't you know, Mr. Burgess, whether it was so or not? A (No answer).

BY MRQ O'MALLEY:

Q Was it at your request? A No, sir.

BY MR. SIMPSON:

Q Then were you there with Fitzpatrick when he requested it? A I was not.

Q Wasn't it according to an appointment made---I am going to ask you this question. You had a talk with Fitzpatrick? A I did.

Q Did he tell you that he was going down to meet O'Leary? A He did.

Q And you went there for the purpose of meeting

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O'Leary, did you not? A We did.

Q By appointment? A Absolutely.

Q How long do you know O'Leary? A Oh, I know him four years.

Q Do you know what his reputation in the community is for peacefulness and truthfulness? A I never known anything wrong about him.

Q Never? A Never.

Q A hard working boy? A Well, I can't say as to his work. I have seen him, and I never saw him mixed up in any trouble of any kind. I have seen him come and go and pass me on the avenue, during the past four years, and I could never say that I saw any disorderly act on his part.

RE-DIRECT EXAMINATION BY MR. O'MALLEY:

Q Now, Officer, just locate in West 52nd Street the house that you say the defendant lived in. With respect to the corner where was it? A 52nd Street?

Q 56th Street, I mean? A Why, it is possibly fifty feet west of Tenth Avenue, on the north side of the street.

Q For many doors from the corner? A Why, there is a corner house, and the next house is an old stable, a low stable, and then it is the next house to the low stable?

Q And that is the house that you tell us you went to

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and watched, as you said? A Yes, sir.

Q Now, I understood you to say you had seen the defendant around the neighborhood for three or four years, have you? A Yes, sir.

Q And you knew him by sight? A I did.

Q But not by name? A Not by name.

RE-CROSS EXAMINATION BY MR. SIMPSON:

Q You knew Collins, didn't you? A Yes, sir.

Q How long had you known Collins? A Oh, about three years, possibly.

Q Three years? A Yes, sir; possibly that, around three years.

MR. SIMPSON: That's all.

MR. O'MALLEY: That's all, officer.

B E R N A R D J . D E V A N N E Y of the Detective Bureau, 26th Precinct, a witness called on behalf of the People, and being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q How long have you been an officer of the Municipal Police Force? A Going on eleven years.

Q And how long have you been attached to the 26th precinct, Detective Bureau? A Why, I will be up there a year on the 3rd of February.

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Q Of this year? A Yes sir.

Q Were you there on the 8th of July, this year? A  
I was.

Q Were you at any time assigned to investigate the  
homicide which resulted in the death of Michael Collins? A  
I was.

Q About when? A I think about the 19th of July,  
around about that date.

Q And at that time did you have the names of the per-  
son? A I did.

Q And whom did you start out to look for, if anybody?  
A A man by the name of Daniel O'Leary.

Q Now, tell us where you went and what you did? A In  
company with Officer Burgess, I first visited with him Num-  
ber 8 Amsterdam Avenue.

Q Yes. A And we learned that O'Leary---  
BY THE COURT:

Q No, you went there? A We went there.

BY MR. O'MALLEY:

Q And did you find the defendant there? A We did  
not.

Q And after that where did you go? Wait a moment.  
Did you talk with anyone there? A Officer Burgess had a  
conversation with somebody there.

Q And then where did you go? A We went to 56th

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Street, near 11th Avenue.

Q Yes? A With the description of the house that was given to Burgess, we couldn't find it---

Q Well, you had a description of some house? A Yes, sir. We didn't find it in that block.

Q I see. A And we went back to the station house.

Q Yes? A And I believe Officer Burgess, the next day, or some time after, located the house that O'Leary lived in as 503 West 56th Street.

MR. McCLELLAND: Now, I object to that.

THE COURT: Strike it out.

BY MR. O'MALLEY:

Q Now, do you know where it is located yourself?

A Yes, sir; on the north side of 56th Street, near 10th Avenue.

Q All right. Go ahead. A And I believe Burgess covered that house for some time.

Q You were not with him? A No, sir.

Q Well, just tell us what you did yourself? A Well, Fitzpatrick and I and Burgess, at different times, went to the saloon.

Q What saloon? A 11th Avenue, between 52nd and 53rd Streets.

Q Whose saloon is it? A Augustus Healey's.

Q And how many times did you go there yourself? A I

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was there, I believe, about seven times, between the 19th and the time the defendant was arrested.

Q Well, when did you go there? A Well, different times.

Q Did you see the defendant there? A No, sir, I did not.

Q All right, proceed. A We continued our investigation, and on the 30th of July, at about 3:30, Officer Fitzpatrick, ~~xxxx~~Burgess and J---

Q No. Don't tell us what was said, unless there is no objection to it. You had a conversation with Fitzpatrick, did you? A Yes, sir.

Q In the station house? A Yes, sir.

Q And Burgess was present? A Yes, sir.

Q And what happened then? A We went to Healey's place on 11th Avenue, and we went in Healey's liquor store.

Q Yes? A And Fitzpatrick asked for Mr. Healey and they said he wasn't in and we were just turning around to walk out, when Mr. Healey and the defendant came in. Healey said to Fitzpatrick, "This is O'Leary" and Fitzpatrick placed him under arrest, and brought him to the station house."

Q And what did you do? A Burgess and I went to 53rd Street, to 53rd Street and Eighth Avenue.

Q Yes? A To look for a man by the name of Golden.

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Q Yes. A We went there, and covered this place, and, some time after 6 o'clock in the evening---

Q Yes? A We couldn't find Golden there, and we went to the station house, and come back shortly after, with Fitzpatrick.

Q Yes. A Where we placed Golden under arrest in this place at 53rd Street and 8th Avenue.

Q And you brought him to the station house? A We did.

Q Now, do you remember---you had a conversation with Golden, didn't you? A I did.

Q Did you personally have any conversation with O'Leary, the defendant? A No, I had no personal conversation with him.

Q I see. Now, at any time that evening, did you see Catherine Connors at the station house? A I did.

Q About what time? A I think it was about between nine and ten o'clock.

Q Yes. Who came there with her, if anybody? A Her mother.

Q Anybody else? A Hattie Weihr and her mother.

Q Yes. A And Fitzpatrick and I. We went down and brought them there, told them to come up.

Q Now, after they were brought there, what, if anything was done? A They were put in a room, the detectives'

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ROOM.

Q Who were? A Both girls.

Q Yes? A And I went out on the street, and I found  
five  
seven young men, who happened to be there/on the south side  
of the street, looking over at the station house, and two  
of them were passing by.

Q Now, can you tell us about what their ages were?

A They ranged from about, I should say, twenty to twenty-  
six. I asked them if they would come in the station house  
and stand in a line for the purpose of an identification,  
and they said they would.

Q Yes? A And the seven was brought into the  
rear room.

BY THE COURT:

Q Did you take their names? A No.

Q You did not? A No. And they were stood up  
there, and there was two young detectives there, who was  
put in the line also.

BY MR. O'MALLEY:

Q Now, who were these detectives? A McMahon and  
Kalbfleisch.

Q And how old were they? A From twenty-eight to  
thirty-two, I should judge.

Q How were they dressed? A Dressed in citizen's  
clothes.

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Q And were those nine men lined up together? A Yes, sir; they were put in a line right across the room, facing north.

Q And how was the line as far as dress was concerned, did they wear headgear or not? A They all wore straw hats.

Q Straw hats? A Yes, sir.

Q And who else was put in that line? A The two prisoners were brought out of the cells, and told to take any position in the line which they chose.

Q And was that told to O'Leary? A It was.

Q And how was O'Leary dressed? A O'Leary was dressed in a blue suit and a straw hat.

Q And did O'Leary take a position in the line? A He did.

Q And also Golden? A Yes, sir.

Q And that made eleven men in the line, did it?  
A Yes, sir.

Q And after that did the defendant take a position in the line? A O'Leary took a position, yes.

Q I mean the defendant O'Leary? A Yes, he did.

Q And after that what was done? A Why, the O'Connor girl was brought out.

Q O'Connor or Connors? A Connors, I mean. She was brought out from the detectives' room, and I told her to

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go along that line, and look carefully, and see if she could see the men that done the shooting of Collins, and to put her hand on him if she did; and she walked along the line until she came to O'Leary and then looked, and she walked down to the end of the line and came back and stood in front of O'Leary, and said, "That's the man", pointing to O'Leary. And I said, "Put your hand on him, and she went over and put her hand on him."

Q Yes? A And she was taken out of the room then, and put in another room, and Weihr girl was brought out and I instructed her the same as the other.

Q What did you say in the presence of the defendant?  
A I told her to go along the line, and if she seen the man that done the shooting of Collins, to put her hand on him, and she went down the line and back again and said she couldn't identify anybody, that she didn't know the man. And I said, "Look it over again carefully," and she walked up and down the line again and she said "No".

Q And then what was done, Officer? A A written statement was taken from the Connors girl, after the prisoners was looked up, she was taken back into the detectives' room, and I asked if she would make a statement and she said yes.

Q Well, don't tell us the conversation; the defendant wasn't present, was he? A No, sir.

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Q Well tell us then only what was done? A She was brought into the room, and Detective Kalbfleisch sat down, and I told him to write down what she said.

Q And did you ask her questions? A Yes, sir.

Q And did she answer them? A Yes, sir.

Q And did anybody write down anything? A Yes, sir; Kalbfleisch wrote them down.

Q And what was done then? A The statement was read to her and she was asked if it was correct and she said yes.

MR. McCLELLAND: I object.

THE COURT: Sustained.

BY MR. O'MALLEY:

Q The statement was read to her? A Yes, sir.

Q And what did she do, if anything? A She signed it.

Q Now, was the defendant's name in that paper? A When it come to putting the name in I said "The man whom you identified" giving the name---

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

THE COURT: Yes, answer Mr. O'Malley's questions.

BY MR. O'MALLEY:

Q Was the defendant's name put in the statement?

A Yes, sir.

Q That was after Katherine Connors had pointed out

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a man in the line? A Yes, sir.

Q And you knew that man's name, did you? A Yes, sir.

Q And that was the name that was put in the statement that man that she had pointed out in the line? A Yes, sir.

Q And that was done when she sat there? A Yes, sir.

Q Now, you say that her mother was there? A She was.

Q And Miss Hattie Weihr's mother was there? A Yes, sir.

Q Now, did you hear any conversation other than you have told us, in the presence of the defendant, when the defendant was present; was there anything said by Catherine Connors' mother? Yes or no? A There was conversation, but the defendant wasn't present, by Catherine Connors' mother.

Q Then don't tell us what it was.

BY THE COURT:

Q Where is this station house, Mr. Devanney? A West 47th Street, 345.

BY MR. O'MALLEY:

Q And it is the precinct station house which includes 52nd Street and 11th Avenue, is that right? A Yes, sir.

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BY THE COURT:

Q What distance would you say it was from the neighborhood of Healey's saloon? A Well, about three quarters of a mile, may be not that far.

MR. O'MALLEY: You may cross examine.

CROSS EXAMINATION:

BY MR. SIMPSON:

Q Now, you have told us about a line of nine men, besides the defendant and Golden, two being detectives? A Yes, sir.

Q You have told that to the jury haven't you? A Yes, sir.

Q Now, what relative position did the defendant bear to the two police officers which you put in line? A Well, he was about the second of the line. One policeman, Kalbfleisch---I wouldn't say for sure whether he was first or second man on the left or right end. I know that the two detectives was near the ends of the line.

Q Now, I want you to give your best knowledge. Isn't it a fact that this defendant O'Leary was placed next to and between the two officers? A No.

Q You are sure of that? A I am positive.

Q You can't be mistaken about that? A I am sure about that.

Q And what number or position did the police officers

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bear to the defendant O'Leary on that line? A I think both police officers---starting from the right, I think that one of them was number 2 and the other was next on the line, on the other end. I think they would be number two on each end.

Q Are you sure about that? A I am positive about it.

Q You can't be mistaken? A No.

Q Don't you know that Kalbfleisch was right next door to this defendant? A No.

Q And how old a man is Kalbfleisch? A I should judge him to be about twenty-eight or twenty-nine years of age.

Q And what was the name of the other officer? A McMahon.

Q And where was he, in what position? A Either number one or number two on that end of the line. I don't know which one was placed on the right or left end but I know that they were number 2 on each end of the line.

Q And where was Golden? A Down at the end of the line, Number 3, I think, starting from the right hand side of the line facing south.

Q And which officer was Golden next to? A I wouldn't say which one it was, but I know that was the position of the officer, but I don't know which one was there.

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Q You don't know which one? A No, sir.

Q Whether it was the defendant O'Leary or Golden?

A I know where O'Leary was, and where Golden was, and I am not sure whether it was Kalbfleisch that was on the right or left, but I know they were number two on each end.

Q You know that each officer was number two on each end? A Yes, sir.

Q No mistake about that? A No mistake about that, no, sir.

BY MR. O'MALLEY:

Q Is either Kalbfleisch or McMahon here to-day? A Kalbfleisch isn't, but McMahon is here.

MR. O'MALLEY: Captain, please call McMahon in.

BY MR. SIMPSON:

Q This is the officer, McMahon? (Indicating a man at the railing) A Yes, sir.

MR. O'MALLEY: May it be conceded that that is Officer McMahon of the 26th Precinct?

THE COURT: Yes.

MR. SIMPSON: And may this man stand right over here, if your Honor please, remain in the room for a while?

THE COURT: Yes.

MR. SIMPSON: That is all.

RE-DIRECT EXAMINATION BY MR. O'MALLEY:

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Q Where is Kalbfleisch to-day? A He is assigned to the 7th District Court, serving warrants.

Q Serving warrants? A Yes, sir.

Q Now, can you get him here? A By telephone, yes.

Q Well, do that, will you? A Yes.

MR. O'MALLEY: That's all.

MR. SIMPSON: Come back again, Officer Devanney, please.

RE-CROSS EXAMINATION BY MR. SIMPSON:

Q You and your brother officers locked up Golden, is that right? A Yes, sir.

Q Did you know that Golden worked in a moving picture place? A Yes.

Q And did you find him when you got there? A Yes, sir.

Q What was he doing? A Working there, the last time we got there.

Q And don't you know that he had been working there every day? A Yes, sir.

Q And what became of him after you arrested him? A He was subsequently discharged by the coroner.

MR. SIMPSON: That's all.

BY MR. O'MALLEY:

Q Had you seen Golden prior to the time you arrested him? A Yes, sir.

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Q Where had you seen him? A I had seen him on 9th Avenue and I seen him at this moving picture place.

Q How many times? A I think about three or four times.

Q You didn't arrest him, did you? A No, sir.

Q Not until you arrested O'Leary? A No, sir.

RE-CROSS EXAMINATION BY MR. SIMPSON:

Q Did you ever go into the premises 507 West 56th Street, to look for the defendant O'Leary? A I did not; no, sir.

BY MR. O'MALLEY:

Q Officer, do you ever, in looking for a defendant, go into his residence?

MR. SIMPSON: Objected to.

THE COURT: Sustained.

J O H N F I T Z P A T R I C K , Detective Bureau, 26th Precinct, a witness called on behalf of the People, and being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q How long have you been a member of the Municipal Police Force, Officer? A Ten years and six months.

Q And you were assigned to the 26th Precinct Detective Bureau on the 8th of July of this year, were you?

A I was.

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Q And were you at any time assigned to investigate the shooting that resulted in the death of Michael Collins?

A I was.

Q When? A The evening of the 19th of July.

Q Were you in the City on the 8th of July? A No, sir.

Q Where were you? A At Rockaway Beach.

MR. SIMPSON: Objected to as incompetent, irrelevant and immaterial where he was.

THE COURT: Overruled.

MR. SIMPSON: Exception.

BY MR. O'MALLEY:

Q Where were you, officer? A Rockaway Beach.

Q On your vacation? A Yes, sir.

Q And you got back to the City when? A The 19th.

Q And did you then begin an investigation? A Yes, sir.

Q Now, officer, tell us what you did, personally?

A On the 19th, I and Officer Burgess went up around 10th and 11th Avenues, looking for a man named Daniel O'Leary.

Q Yes? A We didn't make any inquiries. We went up and down and around. I think it was on the 20th or 21st---no, later than that---Burgess got information that--

Q No, don't tell us that. He got some information?

A Yes, sir.

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Q And what did you do after he got that information?

A That Daniel O'Leary was living in Number 8 Amsterdam Avenue and I went up there. And he got information, a German girl, a baker's daughter, that---

BY THE COURT:

Q Well, you got some information there? A Yes, sir.

Q Well, go on. Don't state that. A And, at intervals, I went in Fealey's saloon.

BY MR. O'MALLEY:

Q How many times would you say? A About four times altogether.

Q And how many times did you find O'Leary there?

A I didn't see him there.

Q And what time of the day or night did you go in there? A I went in in the morning, and sometimes in the evening.

Q Go ahead. A But didn't make any inquiries.

Q Yes? A So, I kept on looking around, and didn't make any inquiries, and so on the 27th of July in the afternoon, I was going west myself on 52nd Street, and there is a blacksmith there by the name of Michael Cunningham, and I got in conversation with him and he asked me if I was looking---

MR. RIMPSON: I object. Well, go ahead, I don't

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object. It may enlighten this jury.

BY MR. O'MALLEY:

Q Go ahead then. A He asked me if I was looking for Daniel O'Leary, and I said, "Yes, we want him in that shooting case of Collins, in 52nd Street" and he said, "I think I can get him for you", and I said, "Very good, if you can" and he said, "All right. I'll see Healey, the saloon keeper, where O'Leary previously worked, on 11th Avenue".

And so he did see Healey, and I saw Healey myself, and Healey said, on the 28th or 29th, he said "If you come down here at four o'clock tomorrow afternoon, I'll have Daniel O'Leary here for you" and I said "All right, very good." And so I went down there in company with detectives Devanney and Burgess and we went into Healey's store, and he wasn't there, and the bartender said he was out some place, and we turned to go out and Healey walked in with O'Leary, and he says, "Hello," to me, "This is Daniel O'Leary."

Q And you took him into custody, did you? A Yes, sir.

Q And did you take O'Leary to the station house?

A Yes, sir.

Q And did Devanney and Burgess go with you or did they go to some other place? A They went to 53rd Street and 8th Avenue.

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Q At all events, they left you? A Yes, sir; they left me.

Q And you went to the station house? A Yes, sir.

Q Now, will you tell us, Officer, what conversation you had with the defendant O'Leary, after you got to the station house, or at any time. A Yes, sir; I had a conversation with him.

Q What was it, please? A He said that he wasn't working on the 8th, that he was up in a saloon between 57th and 58th Street, in a saloon kept by a man named Fleming, and there he met Cornelius Golden, and they had a couple of drinks there and were there some time, he said.

And they left there around five o'clock, he said, and came south on 11th Avenue, to the saloon kept by Augustus Healey, where O'Leary previously worked.

And they had some more drinks there, and sat around there for a while and left there and went to the corner of 52nd Street and 11th Avenue and then proceeded east on 52nd Street, and about in front of 545, or some place close to there, 543 or 545, a ~~quxxx~~ crowd was sitting there, and one of them was Collins, and Collins asked O'Leary, O'Leary said, if he had the price of a drink, and O'Leary said he didn't, and one word brought another, and Golden and Collins started to fight, and they were fighting when Collins was shot by somebody, he said, he didn't

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know who.

Q He said he didn't know who shot him? A Yes, sir

Q Did he say where he went after that? A Yes, sir.

Q Where? A He said himself and Golden went west to 11th Avenue and up 11th Avenue. I think he said they turned through 56th Street, towards 10th Avenue again---I won't be positive about the street---and they went to a drug store, at 57th Street, where Golden had some plaster nose put on his hands, or forehead, for abrasions here. (Indicating).

Q Now, do you recall his having said anything in regard to his hands? A Yes, sir.

Q Will you please tell the jury what that was?

A O'Leary told me that three nights previous to this, previous to this shooting case, he had trouble with Collins in the saloon of Healey, where he was employed as a bartender.

Collins came in, he said, with three or four others, and asked for drinks, and refused to pay and told him they were on him, and he told them to get out and they refused to go out, and he came from behind the bar and started to fight with Collins to put him out and in the fight he hurted his thumb.

Q Go ahead, did he say anything else in regard to his hand or thumb? A I believe he said he had it dressed by

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Q Do you recall---

MR. O'MALLEY: I will withdraw that. I think you may examine.

MR. SIMPSON: No questions. Oh, just one question.

CROSS EXAMINATION BY MR. SIMPSON:

Q Did you ever know O'Leary before the day of the arrest? A No, sir, never knew him until I placed him under arrest.

Q Never knew him until you placed him under arrest? A No, sir.

J E R E M I A H M C M A H O N , Detective Bureau, 36th Precinct, a witness called on behalf of the People, being duly sworn, testified as follows:

MR. O'MALLEY: Now, you may examine him, Mr. Simpson, if you desire to.

CROSS EXAMINATION: BY MR. SIMPSON:

Q Officer, you are an officer of the Municipal Police Force of this City? A Yes, sir.

Q Were you such on the 30th of July? A Yes, sir.

Q Attached to what precinct? A 36th Precinct.

Q Do you remember the line-up in the station house on that night? A Yes, sir.

Q And what relative position did you occupy in that

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line, if you were in the line at all? A Well, I think I stood about three or four on that line.

Q You think you stood about three or four on that line? A Yes, sir.

Q About three or four on that line, you say? A Yes, sir.

Q And where did Golden stand on that line? A I think he stood next to me.

Q And where did O'Leary stand? A He stood two or three men away from me.

Q Two or three away from you? A Yes, sir; there were two or three other men between myself and O'Leary.

Q Were there any other officers on that line? A Yes, sir.

Q How many? A Yes, sir---one more besides me.

Q And what was his name? A Edward Kalbfleisch.

Q And in what position was he? A Well, I can't exactly remember the position that he stood in in that line.

Q Don't you know that he stood next to O'Leary?

A I wouldn't swear that he did.

Q Would you swear that he did not? A I would not.

Q You were next to Golden? A I was.

Q And this line-up contained how many people? A Ten or twelve.

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Q Exclusive of yourself, or including yourself and the defendants? A Including all of us.

Q Ten or twelve? A About twelve people.

Q About twelve people? A Yes, sir.

Q Now, the 47th Street station house runs north, doesn't it? A Well, it is on the north side of 47th Street.

Q Now, you entered the station house---A Yes, sir.

Q And there is a desk to the left? A Yes, sir.

Q And a door going into the back room? A Yes, sir.

Q And there is a back room, and you turn to the left as you go in, and the line-up was facing north? A They were right across, this way (Illustrating).

Q They were facing north, the line up? A Yes, sir.

Q And the backs of the line-up were south? A Yes, sir.

Q Now, from the east to the west, what position did you occupy on that line? A On the west, I was about three or four on the line.

Q And to the west, did you see Golden? A No, he was to the east of me.

Q Then was he about three on that line? A He was three or four; I don't remember which.

Q And that would make you either number four or five?  
A Yes, sir.

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Q And then there were some people in between? A Yes, sir.

Q And in about the seventh position was the defendant O'Leary? A May be the seventh.

Q And so far as Kalbfleisch is concerned, you can't tell whether he was next to O'Leary or not? A No, sir.

RE-DIRECT EXAMINATION BY MR. O'MALLEY:

Q You made no memorandum of the exact position in which he stood? A No, sir.

Q Since then have you tried to recall what the general line-up was? A Well, during the last two or three days I remembered that I stood three or four.

RE-CROSS EXAMINATION BY MR. SIMPSON:

Q You compared notes with your brother officers? A No, sir.

Q At no time? A No, sir.

Q And never discussed it with them? A No, sir. We talked about the case, but not about the line-up.

Q Now, was the day light or dark? A It was dark but there was a good light in the room.

Q What time was it? A Well, I figure out that it was between half past eight and a quarter to nine.

Q Well, was it gas light or electric light in the station house? A No, sir; there is no electric light in the building. It was gas.

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Q Not in the police station in 47th Street? A No, sir.

MR. O'MALLEY: Now, with the exception of Officer Kalbfleisch, whom we wish to bring here, so far as I can see, we rest, but I would like to have him here tomorrow, if you will give us that permission.

I suppose the defence wouldn't object to it. I don't think we will require ~~Detective~~ King. I simply want to produce Officer Kalbfleisch, to let the jury see what was the age, etc. of Officer Kalbfleisch.

MR. McCLELLAND: I think, your Honor, in a case like this, where the responsibility is put upon the shoulders of the lawyers representing the defendant, in the defence of his life, I think the safe thing is to wait until the prosecution is entirely through.

THE COURT: Oh, yes, I think so, too.

MR. O'MALLEY: Well, he will be here right away.

THE COURT: Well, what does that mean. Where does he start from?

MR. O'MALLEY: Well, perhaps I can use him later. I will bring him into Court.

THE COURT: Whereabouts is he coming from?

MR. O'MALLEY: Seventh District Court.

THE COURT: He lives there?

MR. O'MALLEY: East 54th Street. He has just got

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the telephone message now, I am informed. Well, we will call him in rebuttal, if necessary, The People rest.

MR. McCLELLAND: Your Honor, I move that your Honor advise the jury, upon the evidence in this case, to render a verdict of not guilty.

THE COURT: Why shouldn't that motion prevail?

MR. O'MALLEY: Prevail?

THE COURT: Yes.

MR. O'MALLEY: Why, your Honor, this is the situation. We have a witness who, if the jury believe her now taking into consideration her testimony in the Coroner's Court, whose testimony, it seems to me, presents a question for their consideration. We have her testimony that the defendant was the man who fired the shots, and she says that he had his left hand bandaged, being in that respect corroborated by the other witnesses, although, of course, the other witness does not ~~affirm~~ positively identify him; but, if the jury were satisfied with her reasons for changing her testimony in the Coroner's Court, deem them sufficient to satisfy them of the truth of her testimony now, it seems to me that it is a case that ought to be presented to the jury.

THE COURT: With a full regard for the responsi-

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bility that rests upon the Court, for its action, I feel that there is not sufficient evidence here, either in quantity or in quality, to justify my refusing to grant the application.

I advise you, gentlemen, that the evidence is not sufficient to warrant you in concluding that this defendant is guilty, and grant the application.

(The Jury found the defendant NOT GUILTY).

MR. O'MALLEY: And may I say a word in the presence of the Jury?

THE COURT: Yes.

MR. O'MALLEY: I desire to say that, at all times the District Attorney did not regard this as a strong case, but we felt deeply impressed that there was evidence here that demanded that we should present these facts to a jury.

THE COURT: Oh, yes, certainly.

MR. O'MALLEY: And I have tried to be as fair as I could with it, and present all the facts here.

THE COURT: And you have been, certainly.

MR. McCLELLAND: And I want to say here that the District Attorney has acted in a most magnanimous and honorable and efficient manner in presenting this case to the jury, and has borne himself with great propriety throughout this trial.

THE COURT: Oh, yes, that is undoubtedly so.

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