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CASE # 1665

1041

COURT OF GENERAL SESSIONS OF THE PEACE,

City and County of New York, Part II.

1871

THE PEOPLE OF THE STATE OF NEW YORK, Before:

-against-

: HON. THOMAS C. O'SULLIVAN, J.

MUZIO SPADAFORA.

: and a jury.

New York, January 29th, 1913.

Indicted for violation Sections 1420 and 1895, Penal Law

Indictment filed November 21, 1912.

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

For People: MILLARD H. ELLISON, ESQ., Assistant
District Attorney.

For Defendant: JAMES E. BRANDE, ESQ.

A jury is duly impaneled and sworn.

Mr. Ellison opens to the jury in behalf of the People.

B I A G I O C A S S E S S E, called as a witness in behalf
of the People, being first duly sworn, testifies as
follows: (Through Official Interpreter Moustacki.)

DIRECT EXAMINATION BY MR. ELLISON:

(The witness states his address to be 178 First avenue.)

Q In what business were you engaged on the 9th day of
November, 1912? A Moving picture.

Q Where was your moving picture business located on that
day? A 178 First avenue.

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Q In the county of New York? A Yes.

Q And how long prior to that day had you been engaged in that business at that place? A Five or six years.

Q Between what streets is that place of business located?

A Between 10th and 11th. One store was the corner of 11th street.

Q Between 10th and 11th street? A Yes.

Q On the east side of the avenue? A Yes.

Q How many entrances are there from First avenue into that place of business? A Two entrances.

Q And are there any exits on the first avenue side?

A Yes.

Q How many. A One.

Q About how large is the moving picture place in length?

A 20 feet wide, 80 feet long.

Q And about how high? A From the front to the middle, 17 feet high; in the rear 8 feet.

Q About how many people does the place accommodate? A There is room for 285 people to be seated.

Q I want you to tell the jury how the rear of that moving picture place is built, in regard to the exits, and where the exits lead to? A There is one exit in the middle of the moving picture place, which exit leads you into 11th street.

Q Into East 11th street? A Yes.

Q Between First Avenue and what other avenue? A Between First and Second avenue.

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Q In order that we understand --- A (Witness continuing) More on the side of Second avenue.

Q Between First and Second avenue? Are you sure about that? That is not possible, if it is on the east side of First avenue? A The exit in the rear of the moving picture leads you into 11th street.

Q Yes, but between what avenues on 11th street?

MR. BRANDE: Let us concede that it is between First avenue and Avenue A.

MR. ELLISON: I do not want any concessions. I want to get the testimony from the witness.

MR. BRANDE: All right.

A The exit leads out to 11th street, which street is between First avenue and the avenue near the river.

MR. ELLISON: If the Court pleases, at this time I ask that all witnesses on both sides be excluded from the court room.

(All witnesses excluded.)

Q In the back of the moving picture place is there a yard? A Yes.

Q And are there any doors leading from this yard into the exit into 11th street? A Yes.

Q Now, coming down to the 6th day of November, 1912, did you see the defendant on that day? A Yes.

Q Had you known him before that day? A Yes.

Q How long? A More than a year.

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Q On the 6th day of November, 1912, at about what time did you see him, and where? A It was about half past four or five in the afternoon on that date, when the defendant passed me by. I was sitting at the entrance and I said, "What is the matter with this fellow?", I said to myself. And I followed the defendant and I saw him being seated in the middle of the audience there. So I approached him and I said, "What does this mean? You come in a place without paying --- come right in and sit down!"

MR. BRANDE: May I ask your Honor to direct the witness to speak so that I can hear him.

(Witness so instructed.)

A (Witness continuing) When I got him near the door I said to him, "Why don't you pay your admission?" He said to me, "Do you know who I am? Do you know why I should pay?" I said, to him "Go on, go away from here and don't start insulting people. Don't come here and insult the people, and get out from here." Then he said to me, "Well, I am going to destroy you and your whole family with a bomb."

(Here occurred an outburst of weeping, sobbing, gesticulating and talking in Italian, by the defendant.)

Q Proceed. Did any further conversation occur with you at that time? A Nothing else; he went away.

Q When did you see him again after the 6th day of November, 1912, and where? A On a Saturday.

Q Do you remember how many days that was after the 6th?

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A About on the 9th; three days.

Q Three days after. And where did you see him, and at what time? A About a quarter past six, twenty feet away from me, from the corner.

Q From the corner of what street? A 11th street.

Q At that time was your moving picture show house open?

A Yes.

Q Now, I want you to tell the jury everything you saw this defendant do from the time that you saw him on that corner near your picture house on that night? A I was watching this defendant and the defendant was watching me, and about half an hour afterwards I went inside in the moving picture place. After I went inside, three or four minutes after, I went out again, and I saw that the defendant was there no more. Then I went everywhere, looking all around the place there; I couldn't see him. Then I went back to the corner to see where the defendant was standing before, and I went to look there.

MR. BRANDE: I want the benefit of hearing what this witness is saying. He can shout out in that moving picture place, as I know he can, and he can speak in court just as well.

BY THE COURT: (Without Interpreter)

Q How long have you been in this city? A I don't speak --

Q How long did you live in New York -- how many years?

A I no speak English.

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Q Are you in business here in this City? A Yes, sir.

Q How long? A (Witness responds in Italian).

Q Oh, no, answer in English. A I no speak English.

THE COURT: How long does he say he has been here?

THE INTERPRETER: Fourteen or fifteen years.

THE COURT: I doubt very much if he cannot speak English enough to explain himself.

BY MR. ELLISON:

Q Can you talk English? A No, I no speak English.

Q After you came out of the moving picture show house that night, you say that you did not see the defendant again; is that right? A I no speak English.

Q (Question repeated by stenographer)

THE COURT: Now, you go along.

A No, no talk English; no speak.

(At this point of the proceeding there is another outburst of weeping, sobbing, gesticulating and talking in Italian by the defendant.)

THE COURT: Mr. Ellison, proceed with this witness, with the Interpreter.

(The following questions are put and the answers given thereto through Official Interpreter Moustacki.)

Q (Question repeated by stenographer) A When I came out I found him there.

Q You found him standing where? A At the corner.

Q Now just tell us what, if anything, the defendant did

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after that and what you saw him do? A When I went out to look at the corner to see whether I could see where the defendant was standing before, I was looking around and I saw the defendant coming out from the door of the moving picture.

Q Which door --- the front or the side door? A From the door on 11th street --- leading to 11th street.

Q That is the exit in East 11th street, is that right?
A Yes.

Q And that exit is the exit which leads into your yard, is that right? A Yes.

Q Well, what happened after that? A About two or three minutes after the defendant went out from that exit, the explosion came of the bomb.

Q Where were you at the time that the bomb exploded? A At the corner of 11th street.

Q You were outside? A Yes.

Q About how many people were in the place at the time of this explosion? A More than three hundred.

Q And what did you do when the explosion took place? Where did you go to? A I rushed right inside.

Q Just tell the jury what condition you found after this explosion? A Eight or nine people wounded. The bomb was placed near the entrance of the door, and there are six seats lengthwise, running down that door --- they were all smashed into pieces; and pieces of iron scattered all over the floor.

Q Near the entrance to the door. The door leading into

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the exit in East 11th street, or the door leading out into First avenue? A 11th street side.

Q The entrance out of which you saw this defendant go, is that right? A Yes, sir.

Q Now, when did you see the defendant again after the explosion? A In the cafe.

Q Well, how long after the explosion took place? A Five or six minutes.

Q And where is the cafe located? A At the corner of 12th street.

Q And what avenue? A Between First and Second avenues.

Q How did you know that he was in the cafe, within one block of your place? A Because I was standing outside, my son was standing there too, and when the explosion came my son followed the defendant.

Q Is your son's name Thomas Cassesse? A Yes.

Q How soon after the explosion did you see a fireman, or a police officer there? A Two or three minutes afterwards.

Q Did you see Inspector Burns there, of the Fire Department, right after the explosion? A Yes.

Q I show you People's Exhibit 1 for identification, which has been presented to me by the attorney for the defendant, and ask you whether that correctly represents the general location of your picture house and the exits and entrances (now having sketch marked for identification People's Exhibit 1)?
A With the only exception that where the moving picture machine

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is being worked, ought to be near the exit of the 11th street side.

Q Well, with the exception of where the moving picture machine is located this diagram correctly represents the location of the entrance and exits of your moving picture house, is that right? A Yes.

Q Now, will you point out here just what exit you saw the defendant come out of before the explosion, as you have testified? Will you mark it with a red pencil ---

MR. ELLISON: I offer the diagram in evidence.

(Received in evidence and marked People's Exhibit 1.)

A (Witness marks in red pencil on the diagram, which spot so marked has also placed with it a figure 1 with a circle around the figure 1; this spot being the exit that he saw the defendant come from).

Q Will you designate on the diagram the exact place that this explosion took place?

MR. BRANDE: If he knows.

Q Yes, if you know, from your examination of the premises? A (Witness marks in red on diagram, People's Exhibit 1, and alongside the mark so made by the witness a figure 2 is placed with a circle around the figure.)

(Mr. Ellison now leans towards the jury with the diagram, People's Exhibit 1, and proceeds to point out to the jury the two marks which have been made by the witness in red pencil upon the diagram.)

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MR. BRANDE: I object to the District Attorney arguing from the plan to the jury.

MR. ELLISON: I am merely explaining it.

THE COURT: I do not understand that Mr. Ellison is distorting the testimony as received so far. He is describing and showing that diagram to the jury in the light of the testimony received from this witness.

MR. BRANDE: I take an exception to your Honor's ruling. I did not intend it in that way. I did not say he was distorting the evidence. What I did say was that Mr. Ellison was arguing his case prematurely.

THE COURT: The Court heard Mr. Ellison, and it denies that there was any argument to the jury whatever.

Q Were you present when the defendant was arrested in the cafe? A I was not. My son was there.

Q Did you see the defendant after he was arrested?

A Yes.

Q And did you have any talk with him after he was arrested? A No.

Q Did you hear any conversation that the defendant had with anybody else? A No.

CROSS EXAMINATION BY MR. BRANDE:

Q How long have you been in this country? A Twenty-one years.

Q And you do not speak English? A No.

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Q Are you a citizen of the United States? A No.

Q You own property, don't you? A No.

Q Well, you did have property, didn't you? A Yes.

Q And where was that property? A In 18th street.

Q What number? A 425 East.

Q The indictment alleges that you owned this piece of property on 178 1st avenue; do you own it?

MR. ELLISON: I object to that as immaterial to this issue.

THE COURT: It is not necessarily his property in this issue, but he may answer the question.

A No.

Q You are not the owner? A No.

Q How long did you say you know this man (indicating defendant)? A More than a year.

Q One year. Did he come in your place every night? A Yes. Not always every night, now and then

Q But he was there several times a week? A Sometimes yes and sometimes no.

Q And you never had any trouble with this boy until the 6th of November, is that right? A Always have been troubling me and always has been an insulter in my locality there.

Q Well, tell us something about the trouble that he troubled you with in your locality. A He was always annoying the watchman. You know how they act-- just any one that comes in the place would sit down, but he would not sit down,

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and in that way.

Q And this continued for a year? A Not all the year, but whenever he used to come. He used to come in and sing and joke and fool.

Q But this continued for one year? A Not always.

Q Oh, it was periodically? A Yes.

Q And did you ever call him down for that, or try to put him out? A No.

Q Your son is a so-called deputy sheriff, is he not?

MR. ELLISON: I object to the characterization-- "so-called".

Q All right; he is a special deputy sheriff? A Yes.

Q And he is in the place, isn't he? A Yes.

Q And you have another special officer, haven't you?

A Yes.

Q So that between the special deputy sheriff and the special officer that you have, and yourself in that place, you never took this boy on a complaint or put him out of the place for being disobedient to the rules of your place, did you?

A No.

Q And the first time that you went and put him out was on the 6th of November? A Yes.

Q And that was the cause, as you say, that he went in there without paying his 5 cents? A Yes.

Q Well, who was in the booth receiving the nickels that night, on the 6th of November? A I was there.

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Q You were in the booth receiving nickels? A No, I was near the door.

Q Well, who was in the booth? A The cashier.

Q What is his name? A I don't know the name.

Q You don't know the cashier's name?

(A similar outburst to those previously described in this record now occurs on the part of the defendant.)

MR. ELLISON: Now, if the Court please, I think we have had enough of these performances back here. We are accustomed to those in this court.

THE COURT: Do not shout a question at the witness. The atmosphere is already tingling with emotion, and I do not want any encouragement of it at all. Your client at this present motion is in a state where a little bit of encouragement will disturb this proceeding.

MR. BRANDE: Well, I will tell you what I want to offer to your Honor. You know I have tried cases for many years. Let us adjourn this proceeding. I do not like it myself, because he is disturbing me. I want to proceed with the case and I do not want the jury to believe by the remarks of the District Attorney that this man is doing anything he should not do.

THE COURT: The District Attorney is perfectly justified in his remarks.

MR. BRANDE: Then I move that we adjourn.

THE COURT: Proceed.

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Q What is the cashier's name? A I don't remember the name, because it was a new cashier.

Q Where did she live? A I know it is in Mulberry street, but I don't know the number.

Q How long had she been working for you? A 3 or 4 days.

Q Where did you get her from? A It was in the newspaper and she came there.

Q Who read the newspaper-- you or the cashier?

Objected to as immaterial. Objection overruled.

A People reads the paper.

Q Did the people hire your cashiers? A My son put in an advertisement in the paper and the cashier presented herself for employment.

Q Your son was the one who employed her, is that right?

A Yes.

Q How much a week did you pay her? A I think it is \$5.

Q You think \$5? A Yes.

Q You do not even know what you paid your cashier?

(The defendant now again gesticulates, sobs, weeps and bites at his wrist; and the complainant on the stand begins talking rapidly and excitedly in Italian.)

THE COURT: Now, let us come back to the issue.

MR. BRANDE: May it please your Honor, I am sticking to the issue, for this reason: he says that he was in the place, in the booth, in the beginning, and that this man did not pay a nickel. After a while he says it was a

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cashier. Now, I want that cashier here to see whether this boy paid the nickel or whether he did not.

THE COURT: All right, you can probably get here without following that line of questions.

MR. BRANDE: But if he himself don't know her how am I to find her? I might go up into the sky. If he don't know I don't know.

THE COURT: A little encouragement to this will lead in a direction that won't be at all desirable. You can touch the match to the fuse of excitement here by keeping up your shouting questions if you want to. But the Court advises you not to. You are sufficiently acquainted with the trial of cases and the method of conducting them, to know that you may, with your tone of voice and your manner, cause unnecessary exhibitions of temper with people who are excitable, emotional and sensitive. I would advise you to do all that you possibly can to suppress demonstrations, which, when they are on, are hard to stop.

MR. BRANDE: In other words, your Honor wants me to humor this witness?

THE COURT: I wish you would adopt a manner which is less aggressive. Now, do not shout quite so loud; then perhaps your client and this witness may be inclined to follow the example that you set.

Q What paper did you advertise in for this cashier?

A An Italian paper-- sometimes an American paper.

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manager there to manage things but I am always there.

Q Who is the manager? A Cantanzanna.

Q Is that the manager of the 1st avenue place? A When I was not there Cantanzanna was there. When Cantanzanna was not there, there was a man named Conto there.

Q Now, Saturday night, when the bomb exploded, what time was it? A About 7 o'clock, or 10 minutes to 7.

Q 10 minutes to 7, to 7 o'clock? A Yes.

Q Where were you at half-past 6? A I was near the moving pictures.

Q You were in the booth getting nickels, weren't you?

A No.

Q Who was receiving the money? A The cashier.

Q Could you see if a man paid a nickel or if he did not, or if he paid 10 cents and got change for it? A No.

Q So then did you see this man go into the moving picture place?

MR. ELLISON: I object on the ground that the counsel is confusing two nights. If counsel asks him about November 6th I have no objection. On November 9th, there is no testimony that this defendant went into the place.

MR. BRANDE: Let us amend that to the 6th then.

THE COURT: Yes.

A Yes.

Q And where were you-- near the door? A In the entrance.

Q And the cashier was in the booth? A Yes.

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Q Were you receiving tickets? A Every one that enters in handed me a ticket. The defendant did not hand me a ticket.

Q In other words, you were the ticket receiver there? A No.

Q Well, what were you doing at the door?

(The defendant weeps and gesticulates and talks as before.)

THE COURT: Now, let us practice a little self suppression here.

A The one that collected the tickets at the door absented himself for a while, and I took his place for a while.

Q Who is the man that absented himself, that took the tickets? A Guiseppe Rizzi.

Q Where does he live? A He is in the same address, in the moving picture.

Q When did he leave the door? A He absented himself for 10 or 12 minutes.

Q Well then were you at the door when the defendant entered the moving picture place? A He did not enter from the door where I was standing; he entered from another door.

Q He entered from another door? A Yes.

Q How many entrances have you got there? A Two entrances.

Q Which way were you looking? Were you looking toward the entrance where the defendant walked in? A Yes, I was looking at it and he did not give me a ticket.

Q There was no other ticket man at the other door though, was there? A No.

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Q So he walked into the moving picture place without giving you a ticket for the first time on November 6th? A Yes.

Q And did you go right in after him? A Yes, and I took him and I put him out.

BY THE COURT:

Q Why did you put him out? A Because he goes in without paying.

Q How did you know that? A Because I was standing near the door in one entrance and he got near another entrance where he got in.

Q You were not working-- it was run by another person-- what right did you have to put him out? A I am the proprietor of the business there. I am not working but I am a proprietor there.

BY MR. BRANDE:

Q So when you put this boy out he said he was going to blow up the place? A Yes.

Q How many times have you found a bomb in your place before you ever knew this boy? A Never.

Q Well, I don't want to mislead; you know detective Cararre, don't you? A Yes, sir.

Q How long have you been in communication with him about black hand letters that you have received, before you knew this boy? A 2 years ago.

Q And wasn't there a bomb in your place on the 1st avenue side, a little over a year ago? A No.

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Q You are sure of that? A Yes.

Q What did you do with the letters that you received?

★ Gave them to Detective Cararre? A No.

Q Did you consult with Cararre, the detective? A Yes.

Q And did you also talk with detective Grotano? A No.

Q Isn't it a fact that detective Cararre and detective Grotano are in your place every night? A Yes, but I only knew him by the name of Bennie.

Q Didn't you have a man arrested by the name of Bertrano-- arrested in your place, suspected of being the man who put the bomb in your place? A No.

Q You are sure of that? A Yes.

Q Don't you remember Bertrano, who went to State Prison for having a revolver in his pocket in your place? A Yes.

Q Isn't it true that only the other night, or, if I am not mistaken, the night after this boy was arrested, a bomb was fired right into the 11th street entrance to your place; isn't that so? A Far away.

Q How far away-- next door? A 4 or 5 yards further down.

Q You know at 11th street there is the building in which the drug store is occupied, in that building runs down to where your exit is on 11th street; now, see if that is not so?

A Yes, sir.

Q Now, the only building that follows that particular building is only one which is a 25 foot front, and it stops at the cemetery; isn't that so? A Yes.

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Q Well, if that building stops at the cemetery it could not have been 4 or 5 doors below, could it? A This happened about 4 or 5 days ago.

Q Then you had another one 4 or 5 days ago, but then it was not 4 or 5 doors below, because it could not be, could it? A No. 4 or 5 days ago it was right near my place.

Q How long do you say you have been at that moving picture place on 1st avenue? A 7 years.

Q During the 7 years that you have been in that neighborhood, can you of your own knowledge tell these gentlemen and his Honor how many bombs went off in that locality? A Never.

Q No, but I mean in the vicinity, in the locality there, 11th street, 1st avenue, 12th street? A I cannot remember how many.

Q But there were some? A There have been but I cannot remember how many.

Q You say that you did not consult Mr. Cararrez about the letters you received before you ever knew this boy (indicating defendant)? A No.

Q You never complained to the police department about threatening letters that you received? A Yes-- 2 years ago.

Q And who was the gentleman you complained to, wasn't it detective Cararre? A Cararre and 4 others; Digilio and Bennie.

Q And you say that before this Saturday night when the bomb exploded there was not another bomb found in your place before you ever knew this boy (indicating defendant), or ever

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heard of him? A There have been bombs but I don't know-- they were quite a distance from my place.

Q Don't you remember about a year and a half ago there was a bomb found in your hallway, in the 1st avenue entrance, on the stoop? A No, never.

Q And, the Saturday night when the bomb went off, what time did you go to the moving picture place? A What time I went myself?

Q Yes. A About 3 or 4 o'clock.

Q And you remained at this moving picture place from 3 or 4 o'clock until 7 o'clock? A Till 7 o'clock.

Q And what were you doing downstairs in the moving picture place during all those hours if you told us before you did not work there? A I was seated there, and I have got a manager to attend to my business.

Q Were you inside the moving picture place all that time, or were you in the booth collecting nickels? A Inside and outside I was.

Q You were always around the moving picture place? A Yes.

Q Now, on a Saturday night 1st avenue is a very crowded avenue, isn't it? A Yes.

Q It is a market place, is it not? A About 3 or 4 pushcarts there.

Q Don't you know that 1st avenue is lined up with pushcarts from 14th street down to 8th street? A Yes.

Q And the crowd is so intense that you can scarcely walk

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through if you are a stranger-- isn't that so? A One side is pushcarts but the other side is all empty, you can pass through there.

Q Don't you know that in front of your own place you have as many as about 400 people? A Never.

Q What kind of a license have you got for that moving picture place?

Objected to; objection sustained.

THE COURT: I am going to ask you to come back to the issue, and I am going to hold you to it. This is not a fishing expedition, it is a trial.

Q You said in answer to the District Attorney that there were over 300 people in your place the night this bomb exploded; is that so? A Yes.

MR. BRANDE: Now you see, your Honor, the purport of my question.

Q The seating capacity is only 285, isn't it? A Yes.

Q And the reason that you are allowed 285 seats instead of 300 is because when you make an application for a license you save about \$400, isn't that so?

Objected to; objection sustained; exception.

THE COURT: I am going to ask you to come back to the issue.

Q After the bomb went off you went inside the place, did you not? A Yes.

Q And there was quite a commotion there? A There was no

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disturbance; there was simply the wounded people there; the people were running out.

Q And you remained inside all the time? A No, sir.

Q Where did you run out-- to the street? A Yes.

Q Where did you go to? A Cararre came with the defendant and we all went to the station house.

Q And that was 5 or 6 minutes after the explosion?

A About 6 or 7 or 9 or 10.

Q Well now let us see, is it 5, 6, 7, 8, 9 or 10?

Objected to; objection sustained; exception.

Q Who manages your place down in 4th street?

Objected to as immaterial; objection sustained.

Exception.

Q Wasn't your son that night manager of the place down in 4th street?

Objected to as immaterial. Objection sustained.

Exception.

Q Do you know whether or not on this Saturday night in question, between the hours of 6 and 8 o'clock, your son was down in your other place of business?

Objected to. Objection sustained. Exception.

Q When did you see your son on the Saturday night in question before the bomb went off, if it was a bomb?

Objected to. Objection sustained. Exception.

THE COURT: We have wandered far enough away from this issue, and we are going to come back to it, or no ques-

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tions will be asked and answered.

MR. BRANDE: I submit that after you hear the other witnesses you will appreciate my asking these questions.

THE COURT: You are not going to wander away from this issue any more during this trial. Your questions must relate to the issues.

MR. BRANDE: If your Honor will direct me how to proceed I will gladly do it. I want to stick to the issue, but this is cross examination which goes to the credibility and veracity of the witness; and if I cannot cross examine and if I can simply say, "Well, the bomb went off," and stop, well I will stop.

THE COURT: Go on with the trial.

Q On the Sunday morning following the Saturday you were in the police court, were you not? A Yes.

Q And your son was there, was he not? A Yes.

Q And Mr. Cararre, the detective, was there, wasn't he?

A Yes.

Q And Mr. Grotano, the detective, was there? A Yes.

Q And you remember seeing Mr. Brande there? A Yes.

Q Your son did not testify in the police court, did he?

Objected to. Objection sustained. Exception.

Q You were the only man who testified, isn't that so?

Objected to as immaterial. Objection sustained.

Exception.

THE COURT: What has it got to do with the other wit-

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nesses whether he was the only man that testified or not? Now, you find out through the proper sources.

MR. BRANDE: If your Honor wants me to explain perhaps you will understand the purport of my examination.

THE COURT: I shall appoint another attorney to try this case if you go on this way, that is what I will do with you. Now mind what I tell you, I will appoint an attorney to try it.

MR. BRANDE: I take an exception.

THE COURT: There is one way of getting along with attorneys who do this sort of thing and I am going to adopt that way if you do not come back to the issue.

MR. BRANDE: Well, I am trying to confine myself to the issue, but I cannot understand why--

THE COURT: Proceed. Do not be in any doubt about it. If I have to admonish you very frequently again I will order you out of the case and assign an attorney in your place.

MR. BRANDE: Well, in view of the remarks that your Honor has made, I think, in justice to this defendant--

THE COURT: This Court and jury have something to do besides listening to your questions that have nothing to do with the issue.

MR. BRANDE: I disagree with your Honor because I know more about the case, that is where the trouble comes in.

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THE COURT: Do not get insolent about it.

MR. BRANDE: Well, I shall ask your Honor to permit me to withdraw.

THE COURT: Proceed. There is no use ordering you to do a thing if you won't do it. Now I am going to adopt the manner which will make you do it.

MR. BRANDE: I agree with your Honor; I ask leave to withdraw.

THE COURT: I ask you to proceed. Such a thing as this it is a long time since I have seen.

MR. BRANDE: Well, with due respect to your Honor, I take exception to your Honor's remarks, and I have nothing more to ask.

THE COURT: Proceed.

MR. ELLISON: That's all.

MR. BRANDE: That's all.

T H O M A S C A S S E S S E , called as a witness in behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

(The witness states his address to be 178 1st avenue.)

Q You are the son of the complaining witness, Biagio Cassesse? A Yes, sir.

Q You can talk louder, can't you? A Yes, sir.

Q You are also special deputy sheriff of the county of New York? A Yes, sir.

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Q And are you engaged in business with your father? A I am.

Q That is, in the moving picture business? A Yes, sir.

Q Now, do you know this defendant? A Yes, sir.

Q Did you know him prior to the 9th day of November, 1912? Did you know him before that day? A Yes, sir.

Q About how long a time had you known him? A Over a year.

Q Were you in or near the moving picture business at 178 1st avenue on the night of the explosion, November 9, 1912? A Yes, sir.

Q About what time were you there? A 6 o'clock.

Q After you got there did you see this defendant? A No, sir.

Q Well, did you see him before the explosion at all? A No, sir.

Q Were you there at the time of the explosion? A Yes.

Q Just tell the Court where you were? A 6 o'clock, I am at my home, 178 1st avenue, for my supper. Before I have my supper it has been passed over an hour-- I can't tell exactly the time. After I had my supper I went down the hallway on 1st avenue and I saw my old man on the corner of 1st--

BY THE COURT:

Q You mean you saw whom? A My old man-- my father-- on the corner of 1st avenue and 11th street. Now, I saw my father on the corner and I am asking what he is doing--

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BY MR. ELLISON:

Q Never mind the conversation. You had a talk with him?

A Yes.

Q After that where did you go? A Well, I want to explain just what talk we had.

Q No, you can't tell that. Where did you go after you talked? A On the street, near 402, right to the corner exit we got on 11th street.

Q You went then towards 402 East 11th street? A Not near-- only about 6 or 7 feet away from it.

Q And that is where the exit comes from your moving picture place on 1st avenue? A Yes, s r.

Q Tell the jury what you saw? A When I saw my father and I asked him what he was doing--

Q Not any conversation; what you saw and what you did.
A I saw the defendant come from that exit there, and as soon as my father-- of course, I saw the old man, and I saw the old man come from that exit; we been watching; after one or two steps he go to 1st avenue-- we heard the explosion.

Q Just at this point, how long was it from the time that you saw the defendant come out of the exit on 11th street that the explosion took place? A Only one or two steps.

Q Not steps-- how many minutes? A Oh, no minutes at all. It only was a second, that we did the two steps.

Q Go ahead and tell the jury where the defendant went and what you did. A Yes, sir. Now, as soon as we went back--

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THE COURT: Probably you had better ask him questions.

Q Where did the defendant go when he came out of the exit; in which direction? A To the other side walk, the up town sidewalk.

Q And what did you do? A And I been watching him.

Q Did you follow him? A Not before I went back to the place.

Q You went back to the place first? A Yes.

Q How long did you stay in the place? A Only about a few minutes. I can't tell you exactly.

Q What did you do then? A I took Cararre and Grotano with me.

Q Where were they? A At 12th street, in a coffee store.

Q What did you do with the officers? A I went to the coffee store. That was only about 10 minutes later, before we went and watched him. It was only about 10 minutes later that I went into the coffee store to get Cararre and Grotano.

Q What did you do in there? A I see the defendant and I took him out. He no want to come out, and he made a face just white as that wall; he don't want to come out.

Q Was he placed under arrest in there? A Yes, sir, certainly.

Q The officers arrested him? A Yes, sir.

Q Now, how long was it from the time that you saw him come out of the exit until he was arrested? A 10 or 12 minutes; I can't tell you exactly.

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Q Did the defendant say anything when you arrested him?

A Well, he didn't say nothing at all; he didn't want to come there, that's all.

Q And he was placed under arrest then? A Yes.

Q After the explosion you say you went to the theater, is that right? A Yes.

Q What was the general condition-- how were things?

A Oh, big-- about 500 or 600 people. All the ambulances came at once.

Q Was there anything broken in the theater? A Yes.

Q And did you see the people that were injured there?

A I can't see them. Of course, it was only a minute and I went out.

Q Can you state about where this explosion took place?

Where was it? A Yes, sir.

Q Where? A Well, this--

Q Was it in the yard? A In the yard, yes; near the door, the exit door.

Q Door leading to where? A 11th street.

Q To the exit in 11th street? A 11th street.

(The Court now declares a recess till 2.05 p. m., first duly admonishing the jury in accordance with law.)

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After Recess, Trial Resumed.

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T H O M A S C A S S E S S E, resumes the stand and further
testifies:

CROSS EXAMINATION BY MR. BRANDE: (Continued)

MR. BRANDE: In view of what occurred at the morning session in this case, and in order to preserve the rights of the defendant, I would ask your Honor now to withdraw a juror, and to declare a mistrial, and I feel like withdrawing from the case.

Motion denied. Exception.

THE COURT: And I will say that perhaps we may be able to avoid the recurrence of such things as marked the course of the morning. These outbursts on the part of the defendant and on the part of the witness in the Chair I am not going to attribute to anybody, but I am going to say to you that very often the conduct of an attorney in his zeal for the defense probably tempts him to ask questions in the tone of voice and in the manner which you used this morning, and those things may often excite others to disorder. Now, in order to avoid that I think that a calm and easy going manner is better to adopt, and I think if that is adopted that we will not again encounter the unseemly things which occurred this morning on the part of the defendant and the complaining witness in shouting back to the attorney, and by the defendant.

MR. BRANDE: Your Honor knows that I have tried

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many cases before your Honor for many years and this is the first time a thing of this kind has ever occurred, and I have no more control over this defendant than your Honor has than any of the officers or the jurors.

THE COURT: Well, now, let us proceed without argument in an orderly manner, if you please.

BY MR. BRANDE:

Q You say you lived at 178 First avenue? A Yes, sir.

Q That is the same building which is occupied by the moving picture place? A Yes, sir.

Q What time do you go up to have your dinner? A Six o'clock.

Q And you left downstairs to go upstairs at six o'clock? A Yes, sir.

Q And how long were you upstairs? A I can't tell you exactly the time --- about an hour or more, or a few minutes after, I can't tell you exactly.

Q About an hour or a little more over that? A Yes, sir.

Q And you came downstairs? A Yes, sir.

Q And you went into the moving picture place? A I did not.

Q Where did you go? A Outside at First avenue, on the corner of 11th street and First avenue.

Q You went out to the corner of First avenue and 11th street? A Yes, sir.

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3 Q Why did you go to First avenue and 11th street instead of going into the moving picture place? A Because also I see my father on the corner.

Q Did you ever see your father on the corner before this night? A Never.

Q That was the first night? A The first time when on the corner that night.

Q It was on a Saturday night, was it not? A Yes, sir.

Q You know First avenue is crowded on Saturday nights, don't you? A Sometimes; not always.

Q Saturday nights, I am talking about. Don't you know that that is a market place? A No; there is no market on this side; there is a market on the other side.

Q Full of pushcarts? A Not on this side at all.

Q Only on one side? A Yes, sir.

Q No people on the other side at all? A Oh, there is people on this side too; people passing too.

Q How far from the corner is your moving picture place? A I can't tell you how many feet.

Q From where your father is standing? A One store. I can't tell you how many feet.

Q Well, would you say it is about forty-five feet? A I can't tell you.

Q What was your father doing? A Standing on the corner.

Q And looking where? A Looking on the way up 11th street, down the east side.

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Q This corner house is a tenement house, is it not?

A Yes, sir.

Q How many families? A I can't tell you.

Q How many stories high is it? A I can't tell you.

Q You see that building there, don't you? A Well, I see the building, but I don't count the families and the flights.

Q But you know how many stories high it is? A I see the house high, but I can't tell you the flats or anything.

BY THE COURT:

Q Well, to your best recollection how many stories high is it? The best you can remember? A I don't think no more than five or six or eight.

BY MR. BRANDE:

Q Just see if I cannot refresh your recollection. This exit door that you speak about, where this so-called explosion took place leads into the common yard of the building on the corner, doesn't it? A yes, sir.

Q And you know that when you made application for a license for your moving picture place you could not get a license unless you got permission to have an exit into this yard, isn't that so? A Yes, sir.

Q In other words, this exit does not belong to your property at all? A Yes, sir.

Q What do you mean by saying, "Yes, sir"? This door where you say this exit is, it does not belong to your property—that is the yard? A What property? My property where I have

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got the place, or the next building? Explain better.

Q (Handing witness diagram) This is the moving picture place on 1st avenue. A Yes.

THE COURT: You may come in here with that, Mr. Brande.

Q You see, this is the moving picture place on 1st avenue (indicating on diagram). A Yes, sir.

Q This is 1st avenue this way. A On the front, yes.

Q Yes, this is the front; now, this is 11th street (indicating on diagram). A 11th street.

Q Now, this is the corner store? A Yes, sir.

Q Then you come around 11th street, don't you? Then there is a door here. A Just show me right here, please.

Q This is 1st avenue; now, this is the moving picture place; now that place is on 1st avenue? A Yes, sir.

Q This is the staircase that leads up, which is on the side of the moving picture place, into your building where you live? A Yes, sir.

Q And this is the corner building, the drug store? A Yes.

Q Then we come around the corner to 11th street? A That is after the store, it is after the picture place.

Q Now, this entrance here to this building-- A Yes.

Q (Continuing) Goes into a yard? A Yes.

Q And that yard is in the back of the drug store? A Yes.

Q And the toilet of the drug store is over here, is that right? A Yes.

Q And the common toilets are over here? A Yes.

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Q Because the house is an old fashioned house and they have the toilets built there? A Yes, sir.

Q So everybody in this house who goes to the toilet must coem down in this yard? A Yes, sir.

Q And this door belongs to the yard that leads into the street? A It belongs to the next house.

BY THE COURT:

Q The store on 11th street, at the back of the property on 1st avenue, belongs to the ^{corner} property on 1st avenue? A Exactly.

BY MR. BRANDE:

Q So it has nothing whatever to do with your property? No, sir.

THE COURT: Now, will you show that to the jury just as we have got it here?

MR. BRANDE: Gentlemen (indicating on diagram), this is 1st avenue; this is the moving picture place; this is a staircase that leads up to the upper part of the moving picture place; then we follow it up at the corner building, which is a tenement house; and we come around to 11th street, and the entrance to this building is here. Now, this entrance leads to a yard; these are common toilets that they have in the old fashioned houses. Now, there is supposed to be an exit here, and this property does not belong whatsoever to the picture house, and every one that lives in this house has access to this yard.

THE SEVENTH JUROR: Where is the rightful entrance to

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that house?

MR. BRANDE: Right here (indicating on diagram).

THE SEVENTH JUROR: On 11th street?

MR. BRANDE: On 11th street. This is the rightful entrance to this corner building, where this boy is supposed to have been seen coming out.

THE SEVENTH JUROR: The rightful entrance and that exit with the corner is used by the same people?

MR. BRANDE: Well, that is a question. This yard belongs to the corner building. We do not know about the rightful use of the exit. That is a question to be determined afterwards. I just wanted to give you gentlemen a picture of that hall. This is a common hallway as in every other building where tenants come in and go out; like you come in and go out of your house; on 11th street.

THE WITNESS: May I answer that question, whether people come out the yard?

BY MR. BRANDE:

Q You may explain anything you want. What did you want to ask? A I want to ask now where my exit comes out, as I guess over 20 or 15 feet before you go to where the people go out of the building. They have no right to come near my exit door.

THE COURT: We had better leave that for redirect examination.

Q Do you mean to tell me this, that you had bought that

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yard? A I did. I have a permission that nobody can come there near my exit.

Q You have permission to use the yard for an exit in case of fire, is that it? A Yes, sir.

Q But you did not buy any part of that? A I did.

Q So that the tenants in the house have a right to all that yard, haven't they? A No, sir. I have a right from the landlord to chase any one standing in the yard.

Q Who is the landlord? A Well, I will get the landlord here. I don't know the name; I can't tell you the name and the address.

Q Who got the permission from the landlord? A I, as owner.

Q And you don't know the landlord's name, and you got permission? A Yes, sir.

Q Is he an Italian? A No, sir.

Q Who is he? A I can't tell you; he speaks English.

Q Where does he live? A I can't tell you. He is up town.

Q How did you find out the landlord to get permission?

A Well, he is coming over at my place, and that was before the house-- I don't go always home at all.

Q You were looking for permission to get a fire exit in order to comply with the law for your moving picture place, and the landlord came to you to give you that? A Yes.

Q He looked for you and you not for him? A No. The

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janitor looked for him, in my place.

Q Who is the janitor? A The janitor 4, 5 years ago.

Q Who was the janitor then? A Well, it was a man; I don't know the name.

Q Was he a real man? A Yes. I can't tell you the name.

Q Was he a real man?

MR. ELLISON: Objected to.

Q What was his name? A I can't tell you, I don't know.

Q You cannot tell me even that? A No.

Q You were building this moving picture place, were you not; you were putting it up, building it up? A Yes, sir.

Q And you were looking for all these men to do you favors in order to have this picture place go on, is that right?

A For instance it is 4 years ago, 5 years ago; I can't remember that fellow's name. No use telling me anything like that.

Q You don't remember the name of anybody you are talking about? A Nosiree.

Q What was the name of the cashier who was working that night? A Cologio Cacace.

Q Where does she live? A ~~She~~ He lives 425 East 18th street.

Q Wasn't the other a woman? A No, sir.

Q So there was no woman cashier on this night, on the night in question? A No, sir.

Q That is right? A Yes.

Q You are sure about that? A I am sure about that.

Q It was a man? A Yes, sir.

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Q And this is the man, Cologio Cacace? A Yes, sir.

Q And he was inside collecting nickels? A Inside collecting nickels.

Q In a booth? A In a booth-- yes, outside.

Q Now, there was no woman at all, there was no girl there?

MR. ELLISON: Objected to as already answered.

Q You did not advertise for a girl, did you, in the Italian newspaper? A I did.

Q And did you get one? A No, sir, I don't want to get one.

Q And they did not answer? A Yes, they came and I didn't want them.

Q When did you have a girl? A Before this Cacace.

Q No, I am talking now about Saturday night, when this thing happened-- was there a girl or a man in there? A There was Cacace, I am telling you.

Q And that is a man? A That is a man.

Q Now you are sure there was no woman there? A I am sure, yes.

MR. ELLISON: Objected to; he has been over it six times, the same thing; we all know it was a man there.

Q Did you ever advertise in the American papers for a woman cashier? A Never; not after that explosion.

Q Well, before that? A Before that, yes.

Q What papers? A The World.

Q And did you employ as a result of the advertisement in

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the World any girl? A Before that?

Q Yes. A Yes, sir.

Q Who was the girl you employed? A I don't know the name.

Q But you did employ a girl? A Yes, sir.

Q That came to you in response to an advertisement in the papers? A I advertised in the paper and I got the girl.

Q Did you give her a job? A I did give her a job, yes.

Q When the girl came to you from what she had seen in the newspaper, did you ask her her name? A No.

MR. ELLISON: I object to going into this; I do not see what this has to do with the newspaper.

THE COURT: Proceed.

Q Did you ask her her name? A No, sir.

Q So you put her to work as a cashier? A Yes, sir.

Q And you never asked her her name? A No.

Q And you never asked her where she lived? A No.

Q You are a deputy sheriff? A I am.

Q Now, let us see what kind of a deputy sheriff are you.

MR. ELLISON: I object to that remark; that is not a question.

MR. BRANDE: That is not a remark.

Q You do not get any salary from the city, do you? A I do not.

Q You were appointed a deputy sheriff to be a sheriff in the moving picture place, isn't that right? A Yes, sir.

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Q And that's all? A That's all.

Q What is the name of the piano player in that place?

A Silvestri.

Q You saw this boy come in there several times, didn't you (referring to defendant)? A Yes, sir.

Q And when this boy came in there he was speaking to the piano player, wasn't he? A No, I can't tell you whether he was speaking to the piano player or not. He has been in the place.

Q You saw this boy speak to the piano player? A Never.

Q You never saw him? A No.

Q Didn't the piano player leave the job on a Saturday night? A No.

Q Sure about that? A Yes, sir.

Q And didn't your father go down to persuade her to come back? A No.

Q Is she still working for you now? A No.

Q She is not working now? A No.

Q When did she leave you? A She don't leave me. I have got a new piano player; a new professor.

Q You and this boy had some trouble about that piano player because of the fact that she used to speak to him when he came in there; isn't that so? A What Mr. Silvestri told me, he has trouble before; the piano player told me he has trouble, and I been giving my company to the piano player different times to his home.

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Q So the trouble with the moving picture place and this boy started with the piano player? A I never saw anything started with the piano player, only the piano player told me that this boy was gangster for money, and she has told me that he has a letter that has been sent to me, "If you don't give me so much money I will blow your house down."

Q Where is that letter? A The letter, it is up by 106th street.

Q Is she in court today? A No.

Q Did you ask her to come down? A I didn't ask her at all.

Q Did you ever ask her to come down in the police department? A The police court, you mean?

Q Was she there? A Yes, sir.

Q Was I there? A Yes, sir.

Q Was she called as a witness? A No, sir, because the police they say they want to make a different case out of it.

Q You remember the first day we went in the police court?
A Yes.

Q You were there? A Yes.

Q Your father was there? A Yes.

Q The piano player was there? A Yes, sir.

Q Grotano was there? A Yes.

Q I was there? A Yes.

Q And the defendant was there? A Yes, sir.

Q And the judge was presiding? A Yes.

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Q Don't you remember that after your father swore on the stand and the case was finished by the People that the judge said "If you have no more evidence than this I am going to dismiss this proceeding;" do you remember that?

Objected to as incompetent. Objection sustained.

Exception.

Q And then do you remember the officer in the case answering, "Well, I want 48 hours time and I will try to get some more witnesses"?

Objected to. Objection sustained. Exception.

Q And do you remember that the case was adjourned for two days more?

Objected to as immaterial. Objection sustained.

Exception.

Q And do you remember that after two days, after we had heard the case then for the first time you were called on the stand?

MR. ELLISON: I object again and call your Honor's attention to the fact that counsel is keeping up this line of questions that your Honor has ruled on.

THE COURT: Yes. I advise him not to.

MR. BRANDE: Exception. May it please the Court, an objectionable question--

THE COURT: Now, do not; it is not necessary.

Q And do you remember that after the two days, after Judge Appleton had made that request of the police department, that

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then you brought in another witness in the line of a special officer?

Objected to as immaterial. Objection sustained.

Exception.

Q You say you saw this boy on 11th street and 1st avenue on this Saturday night? A Yes.

Q What time was it? A I can't tell you the exact time; it was after 7.

Q It was after 7? A After 7.

Q Whether it was half-past 7 you don't know? A What?

Q It might have been half-past 7, you don't know? A Not half-past 7-- it was only 10 or 12 minutes after 7, I can't tell you exactly.

Q You say that the explosion occurred and you saw this boy on the avenue? A No. I don't say that at all.

Q What did you say? A I say that this boy, I have seen this boy come out; after one or two steps the explosion was done.

Q You want this jury to understand here that you saw this boy come out of this long hallway of the tenement house into the street and that then after that had occurred, that is, that the boy went into the street, that there was an explosion; is that what you mean? A That is what I mean. After two steps, I think, and then he went on the other side of it.

Q After the explosion where did you go? A My father was outside and watched--

BY THE COURT:

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BY THE COURT:

Q Where did you go, is the question. A Oh, I went on the corner, watching where he is going to.

BY MR. BRANDE:

Q You went on the corner to watch where this boy went?

A Yes, sir.

Q Where did he go-- the boy? A He went uptown to 1st avenue.

Q That is east, he went up 11th street and turned up 1st avenue? A Yes, turned up the first avenue, uptown.

Q How far uptown did he go-- how far? A He went-- how far he went? Well, after I got Grotano and Cararre then I turned and went direct to 12th street in the coffee store.

Q How far up 1st avenue did this boy go, if you were watching him? A Well, I can't tell you how far. If I seen him go uptown, 1st avenue, I can't tell you how far it is..

Q Did he get as far as 13th street? A No, sir.

Q Did he get as far as 12th street? A It is not 12th street yet.

Q He didn't reach 12th street? A No, sir. I can't see if he reach 12th street. I can't watch it.

Q Too much of a big crowd? A No. A night like that it is dark, you cannot look at it.

Q It is a dark night on 1st avenue, on Saturday night?

A Yes, sir.

Q You are just as sure of that as of everything else you

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have said?

MR. ELLISON: Objected to as immaterial.

Q But don't you know that 1st avenue is full of stores, there is nothing but stores in every building as you go along the avenue? A I know it, yes.

Q Don't you know that at 7 o'clock every store is lit up? A You cannot, and I bet you if you could see anybody about half a block.

Q Never mind. How many electric lights have you? A It is not all moving pictures around there. There is a light inside the stores, but not lamps outside.

Q No electric lights on the street? A Well, there is electric lights, but I think my eyes cannot see it.

Q How far did they come up on the avenue before you lost sight of them? A I can't tell you how far; it is only maybe half a block. Whatever it was I can't tell you how far.

Q This is the scene; you see a boy come out of a long hallway, of a long house; you are on the street and an explosion goes off and you get excited as you are looking at this boy in particular, going up 1st avenue; is that right? A I was watching this man when he came out of the hall, yes. Because my father was watching him before.

Q And after he come out and went a few steps, as you say, there was an explosion? A Yes, sir.

Q And notwithstanding the explosion, instead of being attracted to the place of the explosion you were attracted by

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watching this boy going up 1st avenue, and you stayed there watching? A No, there was only a second I was watching.

Q So it took him a second to come from 11th street in the middle of the block where this exit door is, up 1st avenue-- it took him a second. Did he run or did he walk? A Now, I can't tell you, a second, or a minute, or whatever it was.

Q Or an hour?

MR. ELLISON: I object to that. The witness says he does not know how long, whether a minute or a second, and counsel says "Or an hour". It is wasting time.

MR. BRANDE: I am trying this case. I am wasting my time, naturally.

MR. ELLISON: Well, I object to the question.

Q Is that the idea?

MR. ELLISON: I object to the question as meaningless; I don't know what that means.

THE COURT: Well, he said a minute or a second, and now he asks, "Or an hour, is that the idea".

A It was a second or a minute; I can't tell you exactly.

Q A second or a minute? A Yes, sir.

Q And that was sometime after 7 o'clock? A Yes.

Q Now then did you go around to the moving picture place after the explosion? A Yes, sir.

Q Where was your father when you got into the moving picture place? A I left my father and I got Cararre and Grotano and went after him.

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Q I asked you where ~~at~~ your father when you got into the moving picture place? A Near me in the moving picture place. He was outside of the admission place with me together.

Q Standing there? A He was standing near me.

Q He was standing near you? A Yes, sir.

Q You were both in front of the moving picture place?

A We are not in front of the moving picture place.

Q Well, where? A On 11th street corner.

Q After the explosion you and your father stood on the corner? A We stood on the corner for right away, at once, then we turned near to the picture place.

Q You and your father? A Yes, sir.

Q When did the detectives come? A The detectives came at once, and I can't tell you a minute, just any time. I went near the picture place and the two police came in.

Q When the detectives came they made an investigation, didn't they? A No investigation before. I don't see no investigation at all.

Q No investigation about what happened? A No.

Q None whatsoever? A No, sir.

Q What did they do-- simply go in and see the show?

A I got them and we went over.

Q If you do not understand my question please say so. When the detectives got to the moving picture place-- so you understand that, don't you? A Yes.

Q You are a sheriff? A Yes.

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Q Did the detectives make an investigation of what happened? A Oh, certainly they did to me, they investigate me.

Q They investigated you? A Yes, sir.

Q What did they investigate you about?

MR. ELLISON: Do you understand "investigate" or do you mean "interrogate"?

A Oh, well, interrogate.

Q Well, now, you are a sheriff, aren't you? A Well, that has got nothing to do with the sheriff. I don't have to speak so good English, if I am a sheriff.

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1 Q So, if you are sent out to investigate a case, you go out to interrogate, is that it? A Interrogate me, yes. That is what I understand.

Q Well, when Cararre and Grotano came to the moving picture place door exit, did you take them inside to see what happened? A No, sir.

Q You didn't take them to see what happened inside at all? A No, sir.

Q What did you do with them? A Take them right over on 12th street.

Q 12th street and where? A Between First and Second avenues.

Q In whose place? A On a store --- I can't tell you whose place.

Q You went direct to that place? A Yes, sir.

Q Now, that coffee store on 12th street is in the middle of the block, between Second and First avenues, is it not?

A Yes, sir.

Q What is the name of the owner? A I don't know.

Q Had you ever been in there before? A Never, only I know it holds a bad bunch in there.

Q Wait a minute; you had never been in there fore?

A Never been in there before.

Q So you left your moving picture place and went up on First avenue, on the east side, is that right? A No, sir; going to the west side on 11th street.

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Q Your moving picture place is on the east side of First avenue, is it not? A Yes.

Q You understand me? A Yes.

Q That means not the west side but the east side? A Yes.

Q You left your moving picture place with the detectives?

A Yes, sir.

Q And you walked up First avenue, didn't you? A Uptown, First avenue, yes.

Q Now, then, you got to 12th street, didn't you? A Yes.

Q And then you had to cross First avenue? A Turned around First avenue.

Q To get up on 12th street? A On 12th street.

Q Between First and Second avenues? A Yes, sir.

Q When you got to 12th street on the west side of First avenue, that is a pretty crowded street on Saturday night, with wagons, pushcarts and everybody selling there --- a market --- isn't that right? A Yes.

Q And you have got to push your way through? A I don't have to push anybody through.

Q Why don't you tell the jury just the scene up there?

A I am telling you, I didn't push anybody through.

Q But you have got to push yourself through the crowd?

A No, sir, it was not so crowded I have to push at all.

Q Then you went up on the north side of 12th street, didn't you, uptown side? A Yes, sir.

Q And you went right to this cafe? A Yes.

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Q With the detectives? A Yes.

Q And you opened the door? A No, the door was open;
I don't have to open the door.

Q Well, you went in the door? A Yes.

Q You were the sheriff? A Yes, sir.

Q And you went and grabbed this boy (indicating defendant)?
A yes.

Q You said "Come with me? A Yes.

Q And the detectives waited outside? A No, sir, they came
inside and gave a hand --- Cararre and Grotano.

Q You were the Sheriff who went inside this store? A To-
gether with the two police.

Q Will you answer it yes or no? A I answer you.

Q You were the first one to go in the door? A Inside,
yes.

Q How did you come to go to this particular store, if
you had never been there before? A Because I am telling you,
I know all the bunch, and he used to be in a bunch in there.

Q Now, let us know the bunch, who is the bunch? A I can
not tell you the bunch. I know them if I seen them.

Q You must tell us the bunch? A You must know better
than I do.

Q You are a sheriff? A Yes, I am a sheriff in a picture
house, not outside.

Q But tell us, we want to know the bunch; just let us
know the bunch? A What do you mean, I must let you know the

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bunch?

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Q Well, you said it, I didn't. A I know that bunch, that that is a bad bunch, but I cannot tell you any name or anything.

Q Why can't you? A I can't.

Q You ain't afraid, are you? A No, sir, if I was afraid I would never come in this case.

Q We have plenty of peace officers in the city. How did you come to go to this cafe? I insist upon an answer? A I am going directly to take this fellow.

Q How did you know he was there? A I know he is related with a bunch, I am telling you.

Q But you said you had never been there before in your life? A Oh, I have been past; I never been in that coffee store.

Q You only passed it by? A Yes.

Q And by passing it by you say there was a bunch in there? A Not that night. I am telling you I passed by always from my business.

Q Well, you mean before Saturday night? A Yes.

Q Were you there on Friday night? A No, sir.

Q Were you there Thursday night? A Not into the place. Passing, yes, every day.

Q How do you come to pass that place every day? A Because my man who makes me my printing ---

Q The what? A The printing, the circulars; give orders

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for circulars every day.

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Q Where is he? A Up 12th street.

Q What number? A 332 or 322 --- I can't tell you the exact number.

Q You do not even know that? A No, sir.

Q How long had you been dealing with this printer? A Over a year or a year and a half.

Q And you don't know his address? A No, sir.

MR. ELLISON: Oh, he said so.

MR. BRANDE: I often have tight shoes myself, but I get a bigger pair once in a while.

MR. ELLISON: We will give you the names of the men that hang out in that place later.

Q When you got the boy in your place did you say anything to him? A I gave him into the hands of the police to arrest; I say, "This is the fellow."

Q In other words, you picked him up and threw him over without saying a word to him? A No, I said, "You are arrested." I cannot explain very good. "You are under arrest."

Q For what, he did not know? A No, I didn't tell him why.

Q You didn't tell him for what? A No.

Q What time was that? A Only about ten or twelve minutes after the time of the explosion. I can't tell you exactly the time.

Q What time did you go to the station house? A It was pretty nearly eight o'clock; I can't tell you the exact time.

Q Didn't you think this was an important case that night?

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A Not for me, not for their watch, I didn't go to the watch for an important case; it was for the police to watch what time it was.

Q Well, you were the man that locked the boy up? A No, sir. I showed them the boy; I didn't lock him up. I put my hands and said, "This is the boy"; that's all.

Q The police did not remain outside in the street while you went inside? A No, sir, they came in the place.

Q What kind of a place is this? A A coffee store.

Q Is it a bad place? A I can't tell you if it is bad or good.

Q Is it open now? A I guess so. If he is open? I guess so. I pass by and see it is open.

Q Did you hear Mr. Cararre say anything to the boy?
A Not at all.

Q Did the other officer say anything to him? A Not at all.

Q Were you there all the time present? A No, siree; I left.

Q When did you leave the officers? A In the station house.

Q From 12th street down to the station house which is on 5th street and First avenue you walked with the officers? A No, not with the officers -- in the back. I never had anything with the officers.

Q You were with them? A I was not; I was in the back.

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Q How far behind the officers did you go? A One or two steps or three steps; I can't tell you how much I went back.

Q What was the object of going down with the officers? What did you go down for? A I wanted to bring the officers.

Q You went with the officers? A Yes.

Q When you got to the station house did you say anything to this boy? A Not at all.

Q Did Cararre say anything to him? A I don't know.

Q Did Grotano say anything to him? A I don't know.

Q Not a word. Now, you speak Italian? A I do.

Q Grotano speaks Italian? A Yes, sir. I never speak Italian with Grotano and Cararre.

Q You speak Italian? A Yes, sir.

Q Grotano speaks Italian, don't he? A I think so.

Q Don't you know he is in your place every night? A I don't know. I seen him, but I never speak Italian. I am speaking right straight language.

Q Don't you know I speak Italian? A I know you speak Italian, because I have been speaking with you Italian.

Q Well, you know Mr. Grotano speaks Italian? A I know he speaks Italian, but I never speak Italian with him.

Q And you know Mr. Cararre speaks Italian? A Yes, I know he speaks Italian.

Q They are Italian policemen? A Yes, sir, Italian detectives, yes.

Q So that from the time that the Italian sheriff and the

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two Italian policemen caught hold of this boy in a cafe on 12th street and went all the way down first avenue to the 5th street station house, not one word was said? A None.

Q And when you got into the station house not a word was said? A What?

Q When going into the station house not one word was said to this boy? A I did not.

Q Well, by Cararre or Grotano? A I don't see if they have any conversation at all.

Q Where were you? A I was in the back, about my business, with the reporter.

Q You know the room of the 5th street station house? A Yes.

Q You know it is a very small room, don't you? A It is no small room at all.

Q Don't you know that I know that room as well as you do? A Oh, well ---

MR. ELLISON: What is the good of asking questions like that? I object to it as immaterial to this issue.

THE COURT: Objection sustained.

Q The prisoner is taken in this room, is he not? When the man is arrested he is brought into a room?

MR. ELLISON: I object to it as immaterial, as to what the custom is.

Objection sustained. Exception.

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Q You were with the detectives until this boy was taken down to the cell, were you not? A I didn't see when he went in the cell. I was staying with the other reporters.

Q What reporters? A The World and Journal, newspaper reporters.

Q You remember being in the police court the following morning, do you not? A Yes.

Q The next morning? A Yes.

Q After the thing happened? A Yes.

Q And you heard your father testify? A I didn't know it. I was in court; I can't hear anything he say.

Q You didn't tell Cararre or Grotano on the night of this explosion that you knew anything about the case, did you? A Yes, I did.

Q You did not testify though, the next morning, did you? A I did not.

Q You did, in the police court? A I did not.

Q You did not, you mean? A Yes.

Q Did you tell Grotano and Cararre anything about a special officer knowing anything about this case?

Objected to. Objection overruled.

A No, I didn't speak on that at all.

Q And that special officer worked for you? A Yes, sir.

Q And the next morning he did not testify, did he?

MR. ELLISON: Objected to as immaterial, and that it has already been passed upon by your Honor.

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Objection sustained. Exception.

Q And you remember when the judge adjourned the case for two days to get more evidence, don't you?

Objected to. Objection sustained. Exception.

THE COURT: If you have no more questions but questions of that character to ask, it is time to dispense with this witness.

Q How long have you known Detective Cararre?

Objected to. Objection sustained. Exception.

Q How long have you known this boy (indicating defendant)?

A Over a year, I say already before.

Q Don't you know that before you knew or met this boy --- the defendant, I mean --- that your father was receiving letters threatening to blow the place up if he did not pay money? A That was about two years ago, after two years ago.

Q And you went with your father to Detective Grotano and to Detective Cararre about those? A I didn't.

Q Well, your father? A I don't know if he did.

Q Don't you remember that you had another man by the name of Bertrano arrested?

MR. ELLISON: I objected to as immaterial to this issue, two years ago, their receiving threatening letters.

THE COURT: Objection overruled.

Q Don't you remember a man by the name of Bertrano?

A No, sir.

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Q Didn't you arrest Bertrano in your place, as a sheriff?

A Not me. I have been down in the other house, because we are in different houses.

Q Which house? A 247 East 151st street.

Q What is up there? A Columbus Vaudeville Theatre; it belongs to me.

Q You have got another house up there? A I had. Not now no more.

Q At that time? A Yes, sir.

Q On this Saturday night when this explosion occurred, how many theatres did you operate?

MR. ELLISON: I object to that as immaterial to this issue.

Objection sustained. Exception.

Q Isn't it true that on this Saturday night in question, you were at the downtown theatre --- I don't know where it is --- that belonged to you, and that you were telephoned that an explosion had taken place up at First avenue, and that you came running up there? A No, sir. I was up in my house at six o'clock. Maybe they did telephone, but I was not there.

Q Maybe a telephone was sent down there, but you were not there? A I was up at my house at six o'clock.

Q You just answered that maybe they did telephone down there? A Yes.

Q But you say "I was not there"? A Yes, sir.

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Q But have you got a telephone in the First avenue house? A No, sir.

Q Which telephone do you generally use?

Objected to as immaterial to this issue.

THE COURT: Objection overruled.

A We generally use the drug store telephone.

Q That is the next building? A Yes, sir.

Q Have you got a telephone down in the downtown house, wherever that may be?

Objected to. Objection sustained. Exception.

Q You are quite sure that on this Saturday night in question you had no young lady in the booth collecting nickels?

MR. ELLISON: Objected to as already answered.

THE COURT: That has been answered six or seven times. I will allow it again.

A There was no girl on that night.

RE-DIRECT EXAMINATION BY MR. ELLISON:

Q Will you point out to the jury just out of what hallway you saw this defendant coming on the Saturday night, November 9th, 1912?

THE COURT: Put a blue mark on the paper. Be careful you have the right spot, and then put a blue mark right on it at the spot you saw him coming out.

A (Witness marks as requested.)

Q Now, I ask you is that the exit from your moving picture theatre, or is it the common hallway --- or are they both the

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same? A Both the same.

Q And it leads into the house as well as into the yard in the back of your moving picture place, is that right? A No; I just want to show you, I can't explain so much -- this is the exit right here (indicating and pointing on diagram); one foot from here is the yard, and then this comes to the moving picture --- I don't know how many feet.

Q What I mean is this: the entrance that he was coming out of leads to your theatre, doesn't it? A Yes, sir.

Q And it also leads to the house on the corner? A Yes.

BY THE COURT:

Q And it also leads into the back yard? A (No answer).

BY MR. ELLISON:

Q And into the back yard? Does it also lead into that back yard here?

THE COURT: I do not understand that it does.

A This is my exit door here, this is the steps, and this is the building where they go up to the building.

Q If you go into the place that you saw this defendant coming out of, to what different places does that lead, that entrance; to which different entrances? A Oh, it will be on the first building too.

Q Tell me the different places it leads to. Does it lead to the yard? Does it lead to any yard? A No, the same yard.

Q The yard of what place? The yard of the house on the corner, or the yard of the theatre, which? A No, the yard

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to the corner.

Q Does it also lead to the house on the corner? Can the people who live in the house go in and out of the house through that? A Yes, sir.

Q Does it also lead to your theatre? A Yes, yes.

Q Mr. Brande has asked you about how much time it took you to go from the moving picture theatre over to the store and back to the station house. Were you in an excited frame of mind after this explosion took place, or were you calm?

Objected to. Objection sustained.

RE-CROSS EXAMINATION BY MR. BRANDE:

Q This diagram, if you only follow me, the Judge, jury and Mr. Ellison will understand this diagram. Your moving picture entrance is on First avenue, is it not? A Yes, the entrance.

Q How much of a front have you got there?

THE COURT: We have been into that; we are not going into that again.

Q This exit that you say is your exit, that is what is commonly known as an emergency door in case of a fire, isn't it?

Objected to. Objection overruled.

A In case of fire, yes, sir.

Q Not that people come from 11th street into the moving picture place? A No.

Q And you never had a fire there, did you? A Never.

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H Y M A N G O O D M A N , called as a witness in behalf
of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

(The witness states his address to be 229 East 10th street.)

Q Do you know the complaining witness, Mr. Cassesse?

A Yes, sir.

Q Did you work for him on the 9th day of November, 1912?

A Yes, sir.

Q What were your duties? A Duties were to see that
the fire exit is open and to see that the light is lit and to
keep everybody in quiet condition there.

Q You were a sort of watchman around the place to see that
everything was all right? A Yes, sir; was carried out in
good order.

Q Were you in the moving picture place at 178 1st avenue
the night of November 9, 1912? A Yes, sir.

Q Were you there before or after the explosion? A A few
minutes before.

Q Were you employed at that address, 178 1st avenue?
A Yes, sir.

Q What time did you get to the place that night? A Oh,
about a little after 7.

Q And at any time did you see this defendant? A No,
sir, I didn't see him at that time, no, sir.

Q Did you see him that night? A I seen him in the exit
door when I was attending to see if the electric light was lit.

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I seen him pass out through the exit aisle.

Q What part of the theater was that you were at when you saw him? A I was right at the exit door there.

Q The exit door leading to where? A Leading towards 11th street.

Q Is there a door leading into a passageway before you come out into the 11th street side? A One door, that is always open. He was passing right in the center, just going out.

Q Had you seen the defendant before that night, in your life? A Yes, sir, many times.

Q Just tell the jury what happened from the time that you saw him there? A Oh, he used to come in there quite often.

Q No, what happened on that particular night after you saw him, on Saturday night, November 9, 1912? A After the time that I saw him I was walking out my exit door to see if my light is lit on top. As I seen the light was all right and was going to close the door I seen the defendant there passing through in a quick walk.

Q Now tell us what happened. A After I closed my door a few seconds later, I turned my back to go to the front exit and I heard the explosion go right off.

Q What did you do? A I run to the front door, opened my exit, see that everybody was out without any more damage than was necessary to be.

Q How many people were in the place at the time of the explosion? A I can't tell.

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Q Well, about how many? A About 150, something like that.

Q Did you see anybody injured after the explosion, around there? A After the explosion, about 6 or 7.

Q Where did they take the injured people? A Took them to the hospital.

Q Did you then go out into the yard? A Yes, sir.

Q And did you see anything there? A I seen the concrete-- a hole in the concrete-- I seen the hole in the door smashed.

Q Anything else broken? A The windows in the drug store and the windows up above the moving picture place.

BY THE COURT:

Q Where is the drug store-- on the corner? A No, sir, in the inside. There is a window from the drug store right in the inside.

BY MR. ELLISON:

Q The drug store is on the corner? A Yes, sir, on the corner of 11th street.

Q This hole in the concrete, how far was that from the door leading into the 11th street drug store? A Right on the corner of the door.

CROSS EXAMINATION BY MR. BRANDE:

Q The rear part of the drug store window faces in the yard of this building? A Yes, sir.

Q And the toilets are in this yard? A The toilets are

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on the other side. There is a drug store window--

Q There is a long yard and two toilets for the tenants to go down stairs? A No, sir.

Q You don't know how many people go in and out there day and night? A No, sir.

Q You did not testify in the police court, did you?

MR. ELLISON: I object to that as immaterial.

A Yes, sir.

Q You swore in the magistrate's court that you were a special officer, did you not?

Objected to as immaterial. Objection overruled.

A Special officer or watchman, either one. Yes, sir, I did.

Q Did you say that you were a special officer? A Yes, sir.

Q Didn't you show me your badge? A Yes, sir.

Q Who appointed you a special officer? A I was not appointed ~~you~~ by any one.

Q In other words you appointed yourself a special officer with a badge? A Yes, sir.

Q You have no chief over you? A No.

BY THE SEVENTH JUROR:

Q That exit leading into 11th street, is that used at any time to let the people out of the moving picture place? A No, sir. It is only used in the case of accident.

Q You never leave anybody go out through there? A No, sir.

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BY THE TWELFTH JUROR:

Q Was the defendant carrying anything when you saw him?

A I don't know, sir.

Q You don't know whether he had anything in his hands or not? A I can't tell, sir.

FRANK MARIANO, called as a witness in behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

(The witness states his address to be 333 Bowery.)

Q Do you know the complaining witness, Biagio Cassesse, the man who owns the moving picture show? A Yes, I know him.

Q Were you working for him on the night of November 9, 1912?

A Yes, sir.

Q Were you working for him at the picture house at 178 1st avenue? A Yes, sir.

Q What were your duties? A My duty was to clean up the place and give out the circulars and go for the pictures to the company; all around.

Q Go around the streets handing out circulars? A Yes, sir.

Q Were you working around the place on the night of the explosion? A Yes, sir. I was giving out circulars.

Q Were you handing out the circulars? A Well, in front of the moving pictures there was a little crowd there and I started to give out a few circulars.

Q At any time that evening did you see this defendant?

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A Which defendant?

Q This man here, the defendant-- did you see him? A Yes, sir.

Q Did you know him before that night? A Well, I used to know him quite a while. He used to come in.

Q Had you seen him before that night? A Yes. I seen him before.

Q Where was he when you first saw him? A The first time I saw him?

Q No, I mean on that night, on the night of the explosion; where was it that you first saw him on that night? A I seen him coming out of 402 East 11th street, in the alleyway.

Q What direction did he come from? A He went across the street.

Q 402 East 11th street? A East.

Q Is that where the emergency exit from the picture house is? A Yes, sir.

Q What happened after that? A I seen that man coming out of the alleyway there, and I was in the back house, you know, and I didn't pay no attention, because I didn't know who he was. So I walked on a little bit, and when only about two or three steps I heard a bomb go. So I turned around and I go up to the corner and I see Biagio and Tom Cassesse standing there.

Q You mean the complaining witness and his son, that own the place? A Yes, sir.

Q Where? A At the corner.

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Q Of what street? A 11th street and 1st avenue.

Q Go ahead. A And I told them, I told them about it, and I went to the moving picture place and I seen all the people were rushing out, and I started to hold the doors, and that is all I know about it.

CROSS EXAMINATION BY MR. BRANDE:

Q How long have you been working for Cassesse? A 9 months.

Q Where are you working-- down on the Bowery? A Well, I was on 178 1st avenue.

Q Weren't you working in the Bowery house? A Huh? I was, first.

Q Weren't you down at the Bowery house first? A No, I was at 178 1st avenue.

Q What time did you start to work? A Well, I was there about 4 or 5 months before the bomb.

Q What time that night did you start to work? A After 7. That is the time I come home from supper.

Q It was after 7 o'clock when you started to work? A Yes, sir, and I got the circulars.

Q Where did you live? A On the Bowery.

Q At 303? A At 301-- 331.

Q 331? A Yes, sir.

Q Whom did you live there with? A I used to live with the moving picture.

Q And that moving picture where you say you lived, that

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is the moving picture place of Cassesse? A That is where Cassesse has got now, yes, sir.

Q Where did you work before you worked for Cassesse?

A I worked for Caldarone-- another moving picture place.

Q And now Cassesse owns that, doesn't he? A Yes, he owns that. But before Cassesse owns this picture here I used to work for him in 178.

Q After you left the moving picture place at 331 Bowery-- is that the Florence? A That is the Florence.

Q That is between 3rd and 2nd street, isn't it? A Yes, sir.

Q And what are your duties? A My duties? To sweep and to give out the programs and get pictures-- all around-- I used to do a little of everything.

BY THE COURT:

Q Who was your overseer-- your boss? A Mr. Tom Cassesse.

BY MR. ELLISON:

Q Who do you mean, the father or the son? A The son.

BY THE COURT:

Q What does the father do around there? A That is the time I was working for the son.

Q What did the father do around that moving picture show? A Nothing. His father was never up at the Florence.

Q Was the father around the moving picture show where you worked, where the explosion was? A Well, he is the boss there, the father; he is the boss on 178, and I used to work for him.

Q So he goes around there giving orders? A Yes, and we

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used to do it.

Q What did you see the father doing around there?

A Well, he used to be around there, bossing around.

Q Are you an Italian? A Yes, sir.

Q Where were you born? A In Italy.

Q How long have you been in this country? A About 18 years.

Q I suppose you mostly talk English up around there?

A Well, a little bit.

Q Well, what do you talk, mostly English or Italian?

A Well, I couldn't judge what I talk most, Italian or American.

Q Well, do you talk Italian with the son? A Sure.

Q Italian with the father? A Mostly.

Q Sometimes English with him? A Sure.

Q Sometimes English with the son? A Certainly.

GEORGE K. BURNS, called as a witness in behalf
of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

(The witness states his residence to be 218 9th avenue.)

Q You are a member of the fire department of the city of
New York? A Yes, sir.

Q And have been for how long? A 18 years.

Q How many times has the city of New York honored you with
medals for bravery, for service? A 6 times.

Q On the night of November 9, 1912, were you in the vicin-

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ity of the premises 178 1st avenue? A Yes, sir.

Q About what time? A About between quarter after-- a quarter after 7.

Q At about that time did anything attract your attention?

A I was at 12th street and 1st avenue, I heard an explosion and I run.

Q What did you do? A I seen the crowd all run toward 11th street, and I ran, and instead of-- some ran 1st avenue and others into 11th street, and I ran into the 11th street side of the building, in a side entrance, and went to the yard, and there I found all the windows broke. I began trying a door opposite and I looked all around to find some part of the bomb, as it was part of my duty, being connected with the bureau of combustibles, and I couldn't locate any part of the bomb, and I had a candle and an electric light and then I went around the front part and come in the moving picture show to see if I could find any in there, and in the drug store where the window was broke, and there I seen all the people injured.

Q You say you ran into an entrance. Will you look at People's Exhibit 1 and tell the jury what entrance you got into this place by? A This is 11th street--

Q The theater faces the avenue? A Yes, sir; the front of the theater faces on the avenue; and I got in here where there is this exit, as we call it, for the fire department.

Q You ran in that way and got into the back of the place?

A Yes, sir.

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Q When you went through that place did you see any evidence of explosion there on the ground any place? A Yes, sir, there was a hole on the ground and a hole in the door.

Q How many people did you see injured around there? A I counted 7 in the drug store, and I made a report and turned it over to the other inspector, Egan, who was more familiar in the handling of these bombs than I am.

Q Inspector Egan? A Yes, sir. I notified headquarters over the phone about 2 minutes after 8-- from 2 minutes after 8 to 5 minutes after; I notified him over the headquarters wire to his house.

Q Inspector Egan, who is outside? A Yes, sir.

CROSS EXAMINATION BY MR. BRANDE:

Q What did you say your name was? A George K. Burns.

Q Mr. Burns, as soon as you heard the explosion, you ran into this 11th street entrance, did you not? A Yes, sir.

Q And you being experienced, being connected with the bureau of combustibles, you immediately set about to make an investigation? A Yes, sir.

Q And you did make a thorough investigation of that yard, did you not? A Yes, sir.

Q You went to where this bomb or whatever it might have been exploded? A Yes, sir.

Q And you looked around? A Yes, sir.

Q Did you find anything? A The officers found things.

Q Oh, no-- you were there before the officers? A Yes.

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No, I was there just as soon as some of them.

Q Who were there first on the scene, you or the officers?

A Some of the officers was in the front part of the show.

Q Where? A In through the 1st avenue side.

Q No, I am talking now about the 11th street side. A Well, possibly I was the first one in there.

Q This is a little yard? A Yes, sir.

Q Toilets on each side of this yard, and the window of the drug store is on the right hand side as you go in; isn't that so? A Yes, sir.

Q And there is light coming from the drug store-- the window, rather? A Yes, sir.

Q Into the yard? A Yes, sir.

Q This explosion took place? A Yes, sir.

Q You know very well, being a hero, that if you were the first man in there-- A I started to pick up a package there in the yard which I thought may be in it, and one of these detectives grabs my hand and says "Give me that". I says "No, I am first. I am from the bureau of combustibles." And I showed my badge. So that shows that he was in there.

Q Were you in citizen's clothes? A Yes, sir. I was on a night off.

Q But entering the door, you entered this door immediately after the explosion, did you not? A Within half a minute to a minute.

Q It was right away-- you were right in the vicinity?

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A Yes, sir.

Q You didn't see the officers around you, did you-- the police officers? A Well, I seen this fellow in there.

Q No, I mean at that time when the explosion went off, or just before it, you did not see the officers? A I seen the officers running down the avenue the same as I was, but not in there, I didn't take notice of them.

Q Are you familiar with that neighborhood? A Partly.

Q 1st avenue and 11th street? A Yes, sir.

Q Do you live there? A No, sir; 9th avenue and 23rd street.

Q You were standing on what corner of 11th street?

A I was walking down 1st avenue at 12th street when I heard the bomb.

Q You were at 12th street? A Yes, sir, when I heard the bomb; and I ran.

Q And you ran down 1st avenue? A Yes, sir.

Q And you got into this building? A Yes, sir.

Q I suppose there was a crowd running? A Oh, certainly there was a big crowd all running.

Q When you were down to this door which leads to this tenement house on 11th street, it leads also to the emergency exit of this moving picture place-- did you see any one in front of you? A They was running in and out both.

Q Out of this door? A Yes, sir.

Q You don't know whether they were the tenants of the

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building or not? A I don't know.

Q Now when you got into the yard and began your investigations you went to where this explosion took place? A Yes, sir.

Q Now was there any one there before you got there? That is what I want to get at. A Well, I can't hardly say they were. I guess they run as quick as I was, and I as quick as them. The police I know were on the inside of the building, I know, ahead of me.

Q We will assume that this is the hole near the door where the explosion took place (pointing to a hat turned inside up on the table); let us assume that for a moment. A Yes, sir.

Q Now you come along and you are going to investigate and you are investigating around here the same as I am now (indicating)? A Yes, sir.

Q Looking at this hat, which purports to be a hole in that ground where this explosion took place; while you are doing this did you see anybody around you or was anybody there before you? A Well, I seen them around me; I can't say whether they were there ahead of me or after me.

Q Suppose that somebody came afterwards? A Well, I wouldn't see them come in after me.

Q While you were there investigating did anybody say to you that he was Officer Grotano or Officer Cararre? A Neither said anything.

Q So you don't know whether there were any officers there at all? A Until they grabbed my hand when I picked up some-

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thing and wanted to know what it was.

Q Who was the one did it? A I can't tell you his name.

Q Did you know him? A Yes, sir.

Q What was the package? A What I had was only an empty case, like a capsule box, so I threw it down.

Q A medicine box? A Yes; it was blew out the drug store window. The explosion blew it out; there were dozens of them laying there.

Q When you showed your badge did they in turn show their badges to you, these gentlemen who were there? A No, sir, they did not manifest themselves as being officers? A But I recognized from their authority that they were.

Q You had to show your badge, didn't you? A Yes, sir.

MR. ELLISON: I object to going into that They evidently understood it; as soon as this officer-- he says he was in civilian's clothes-- they got together there.

A (Witness continuing) There was no further trouble.

THE COURT: I will let him examine.

Q If any one there present doubted your authority and compelled you to show your badge, didn't you in turn doubt them as an officer? A No, sir.

Q In other words you would take their word? A Yes, for they looked to me as though they were doing what they were there for.

Q After you took their word and took it for granted that they were officers did you then get together, and get together

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and form a committee and make an investigation? A We all hunted all over the place.

Q Now after you hunted all over the place did you get together and agree on what you had found as the result of the investigation? A Not exactly, no, sir.

Q You didn't get together? A No, sir.

Q Was anything said by anybody about something being found there? A No, sir. I was not with them a minute; only just kept looking over there for my own benefit.

Q Trying to find something? A Yes.

Q And found nothing? A No, sir.

Q Except that little-- A The hole in the ground and the hole in the door.

Q And the box? A Well, the box was blown off a shelf; there was dozens of others with it.

Q You found nothing in the yard on the line of matches or explosive bombs, did you? A The officers did.

THE COURT: Answer that question.

A (Witness continuing) No, sir, I did not.

Q You had been talking with these officers all day, hadn't you? A No, sir.

Q Did you find anything? A I found nothing.

Q And you are an expert? A Well, not so much of an expert.

Q Well, you are such a good man that you received 6 medals so you must be some good man when you go on an investigation?

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80 1/2

A Well, but I am not familiar with all combustibles.

Q I don't say you are, but I mean that when you go to investigate a matter you begin by going at it pretty thoroughly?

A Yes, sir.

Q If there had been anything there you would have seen it and picked it up? A Yes, sir.

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RE-DIRECT EXAMINATION BY MR. ELLISON:

Q You don't know what the officers found --- you were all searching in different quarters of the yard? A Yes, sir.

Q And you don't know what they found? A I do not.

RE-CROSS EXAMINATION BY MR. BRANDE:

Q But you were there examining at that hole, were you not? A I was.

Q And you found nothing? A No, nothing.

BY THE COURT:

Q Were the officers in the yard when you were there?

A Yes, sir, they came through the door, from the moving picture and we got an electric light.

Q That is after you got in there? A Yes, sir.

Q How long had you been in the yard before the officers came in? A Probably five minutes.

Q Had you looked around there pretty thoroughly? A Yes, sir.

Q Looked near the explosion in the earth --- the hole, rather, from the explosion? A Yes, sir.

Q And scrutinized it very carefully and closely? A Yes, sir.

Q And looked around that section where the hole was pretty carefully? A Yes, sir.

Q Now, tell us all you were looking into on that ground by that hole? A I went into an adjoining hall.

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Q No, about that hole in the yard? A Well, I felt around with my hand to see could I find any pieces of anything that this explosion must have come from, and I couldn't find any.

Q How near to the hole? A Right into it.

Q And outside of it how far? A Within five feet each way.

Q All around it? A Yes, sir.

Q Found nothing except what you say? A Found nothing.

Q Now, in the direction of the street, through the alleyway, didn't you examine? A Yes, sir.

Q How carefully? A As carefully as I could, sir.

Q All the way out to the sidewalk? A No, sir; only to the door leading into the hall. All the yard I examined carefully, inch by inch with this light, but not into the hall.

Q And that examination was done before or after the coming of the officers? A Well, they was there, they was there.

Q Well, how much of your examination had you made before the officers came there? A Well, I couldn't get no light, and I got a candle off some one, and then they got a light and they came out the side entrance into the yard and we all looked.

Q Who were there besides the officers? A Well, there was a lot of citizen people looking in, and they were getting chased out.

Q You were chasing them out of the yard? A Yes, sir.

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Q Then they must have gotten into the yard in order to be chased out? A Some of the tenants were coming in through these different hallways.

Q Would come in and then you would chase them back? A Yes, sir.

Q Did you talk to the proprietors of the place? A No, sir, I had nothing to say whatever --- only asked how many was injured and went in and took their names and made my report.

Q Whom did you ask these questions of? A In the drug store. I got a couple of names off a reporter.

Q You had nothing at all to do with the arrest of the defendant? A No, sir.

Q You didn't know anything at all about him? A No, sir, not until the next morning.

BY MR. BRANDE:

Q How long did you remain with the officers after you completed your investigation? A I practically did not have anything to do with them.

Q No, I say did you remain with them there? Did they go in the drug store? Did they assist you or you them in investigating the matter of the injured people? A I had no assistance in the drug store. I just merely went in and got the names to make my report, as I was there; and I let them take charge as long as I couldn't find what I was after.

Q That is, the officers took charge? A Yes, sir.

Q And you were simply making up your own personal report?

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A Yes, sir, I didn't interfere with them.

Q How long did you remain there before these people were taken out of the drug store, and the officers with them? A I was there fully three quarters of an hour, because it was 8:05 when I telephoned to Headquarters to notify Inspector Egan.

Q And there is a telephone in the drug store, is there not? A Yes, sir.

Q And you telephoned from the drug store? A Yes, sir.

Q And the officers were still in there while you were telephoning? A Yes, sir. I just notified ---

Q No ---

THE COURT: Well, I think we have gotten about all of this testimony.

MR. BRANDE: Your Honor don't know what I am trying to get at ---

Q Do you know Mr. Cassesse? A No, sir.

Q When you came running down First avenue did you see Mr. Cassesse? Did you see a gentleman like that (indicating Biagio Cassesse) stand on the corner? A After I got into the moving picture booth -- the show, and after I examined the yard I went in to examine the proprietor's name so as to inform my chief. I saw the owner of the show --- he was the gentleman who said he was the owner.

Q But you did not see him on the corner of 11th street and First avenue? A (No answer).

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BY THE COURT:

Q Who said -- this gentleman here (Biagio Cassesse)? A Yes, sir.

Q How long a conversation did you have with him? A I just asked who the owner was --- not a minute.

Q Just use the words you used when you were asking that question? A "Who is the boss?".

Q What did he say? A I said, "What is the name of the boss?"

Q And what did he say? A And he gave that name. I couldn't recollect it, your Honor. It was just in case that if I was asked ---

BY MR. BRANDE:

Q You spoke to this gentleman, Mr. Cassesse, didn't you?

MR. ELLISON: Oh, he said so. I object on the ground that your Honor has asked the officer the conversation and he has told you.

THE COURT: Well, I think he may examine further about it.

Q You spoke to him and he answered you? A Yes, sir.

Q You spoke to him in English, didn't you? A Yes, sir.

Q And he answered you in English, and he gave you his name, didn't he? A It was not --- he did not exactly answer -- he said, "Me, the boss." And another fellow told me how to spell the name, and I couldn't tell the man if I seen him.

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Q A man spelt the name for you? A yes, sir.

Q But he said he was the boss? A yes, sir; they was all excited there.

Q And that was in the moving picture place proper? A Yes, sir. That was after 7 --- twenty-five minutes after the explosion.

Q And you say it was about 8:05 when you telephoned up?

A Yes, sir.

Q And you were in the drug store with the officers?

A Yes, sir.

BY MR. ELLISON:

Q Did the officers show you anything in the yard that night that they had found in searching around? A No, sir, not that I can recall.

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B E R N A R D G R O T A N O (detective bureau) called as a witness for the People, is duly sworn.

(The witness is now temporarily withdrawn.)

O W E N E G A N , called as a witness in behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

(The witness states his address to be 152 East 49th street.)

Q You are connected with the fire department of the city of New York? A Yes, sir.

Q And have been for how long? A 18 years.

Q And with what particular branch of the department are you connected? A Bureau of combustibles.

Q Are you a member of that bureau? A No, sir.

Q What are your duties in connection with that bureau?
A To examine all explosives and combustible material found, and store it.

Q For how long a time have you been engaged in examining explosive materials? A About 18 years.

MR. BRANDE: I will concede that he is perfectly competent.

Q You have examined in your experience many explosives, haven't you, and the effects left by explosives? A Yes, sir.

Q I ask you whether or not you visited the premises 178 1st avenue, in the county of New York, on or about the 9th day of November, 1912? A Yes, sir.

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Q Did you make an examination? A Yes, sir.

Q Where did you examine-- in what part of the premises?

A I examined the entire building.

Q And did you find any marks of any explosives any place?

A Yes, sir.

Q Where? A On the rear exit leading from 11th street to the moving picture house.

Q What did you find? A The door damaged, and the concrete on the inside of the door damaged; all the windows on both sides, and an exit leading into 11th street.

Q Did you find anything in any of the concrete-- any depressions any place in the concrete? A Yes, sir.

Q Where was that? A Right outside the door.

Q Was that on the side of the door leading to the exit out in the street, or on the moving picture side? A On the doorway, outside of the moving picture.

Q Can you state from your experience whether that damage-- and from your general description-- was caused by an explosive substance? A Yes, sir.

Q What kind of an explosive? A To the best of my knowledge and opinion, dynamite.

CROSS EXAMINATION BY MR. BRANDE:

Q You mean you think it was a cartridge? A No; a bomb, or whatever you may call it, made out of dynamite.

Q You have seen several bombs? A Yes, sir.

Q When there is an explosion of a bomb don't it generally

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leave a trace-- paper or string or something? A No, sir.

Q What becomes of that substance? A That is all blown away with the explosion--

Q It is eaten up by the fire? A Eaten up by the explosion.

Q You are acquainted with the neighborhood down at 11th street and 1st avenue, are you not? A Thoroughly, yes, sir.

Q And you have been called down there many times?
A Many a time, at all hours of the night.

Q When was the last time you were called down on a bomb matter, at this particular place on 11th street?

MR. ELLISON: Do you mean the premises 178 1st avenue?

THE COURT: He does not appear to have been called there before.

THE WITNESS: No, sir.

BY THE COURT:

Q This is the only time you were called there? A Yes.

BY MR. BRANDE:

Q You know the general reputation of the neighborhood?

A Yes, sir.

Q And you know that it is known on the map of New York as the bomb district? A That is what it is known at fire headquarters.

MR. ELLISON: That is right, that is what it is, and we are trying to clean it out.

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B E R N A R D G R O T A N O , recalled, having been previously duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q You are a member of the police department of the city of New York? A Yes, sir.

Q And have been for how long? A A little over 5 years.

Q To what precinct were you attached on the 9th day of November, 1912? A Detective bureau, assigned to the 15th precinct.

Q That covers that neighborhood around East 12th street? A Yes, sir.

Q You are an Italian detective? A Yes, sir.

Q Were you in or about the premises 178 1st avenue on the night of November 9, 1912? A I was.

Q And were you alone or with another officer? A I was in company with officer Carrarre.

Q About what time did you get to those premises on that day? A About 7.20 p. m., November 9th.

Q And did any one notify you to come there? A No, sir.

Q Or were you just passing at the time? A I was on the corner of 12th street and 1st avenue.

Q Tell the jury everything you saw from the time that you got there with Cararre? A About 7.15 or 7.20 p. m. November 9th, in company with officer Cararre I was standing on the southwest corner of 12th street, and 1st avenue, when we heard an explosion, and the sound came from 12th street-- from 11th street,

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11th street and 1st avenue. Immediately after that officer Cararre and I ran towards 11th street and we got to 178 1st avenue, which is occupied as a moving picture place and owned by Mr. Cassesse. We went in the moving picture place, into the yard of 402 East 11th street, and there we saw a lot of broken glasses and a big hole through the exit door, a hole in the ground right behind this exit door, and a couple of small boxes which had fallen from the window, the drug store window, where this window leads in this back yard of 402 East 11th street.

Q That window had been broken, hadn't it? A Yes, sir.

Q And this stuff had apparently fallen out or been blown out of the window? A Yes, sir.

Q What did you do in the yard? A We searched among the debris for the remnants of a bomb, if possible, and there I found two burned matches.

Q I show you People's Exhibit 2 for identification and ask you if those are the two matches you found in the yard?

A Yes, sir.

(The two matches are marked for identification People's Exhibit 2.)

Q Did you find anything else? A (No answer.)

Q Just about where did you find these matches? A A short distance away from where the bomb was exploded.

Q What did you do after that? A (No answer.)

BY THE COURT:

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BY THE COURT:

Q How far away? A Oh, I should judge 9 or 10 inches --perhaps a foot.

BY MR. ELLISON:

Q You did not find any part of a bomb or anything, did you?

A No, sir.

Q What did you do after this? A After that I went to the drug store on the corner.

Q Did you see any people injured in the drug store?

A I took several of them into the drug store myself.

Q You took them in yourself? A Yes, sir.

Q How many did you take into the drug store? A One or two. I took them in the drug store, and a short while after that two ambulances came there and a couple of doctors and they started to dress the wounds.

Q And take care of the people? A Yes, sir.

Q Now just skipping over that, what happened after that?

A Officer Cararre and I saw Cassesse, the complainant's son, Cassesse, and he told us about seeing a man--

BY THE COURT:

Q The father or the son? A The son-- also the father.

BY MR. ELLISON:

Q You had a talk with him? A Yes, sir.

Q After having the talk as a consequence of the talk what did you do? A With officer Cararre I went to the cafe, of Bengossi.

Q Did you go with him? A Yes, sir.

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Q Where did you go? A 349 East 12th street, near 1st avenue and 12th street, and there we arrested this defendant.

Q Who arrested him? A Officer Cararre and I, and on the complaint of Thomas Cassesse, the son of the moving picture man who was present.

Q And then you took him to the station house and locked him up? A Yes.

Q Were you present when the defendant was searched? A I was.

Q Was any property found on him? A Yes, sir.

Q What? A A box of matches-- a small box of red matches.

Q I show you People's Exhibit 3 for identification. Was that box of matches found on him? A Yes, sir.

(The box of matches is marked for identification People's Exhibit 3.)

Q Where was it found? A In his vest pocket.

MR. ELLISON: I offer it (the box of matches) in evidence.

MR. BRANDE: No objection.

Received in evidence and marked People's Exhibit 3.

BY THE COURT:

Q What else did you find? A 4 more matches of the same kind in his vest pocket, up in his furnished room.

Q But what else did you find on his person when you searched him? A A pawn ticket, a postal card, a raffle book-- some personal belongings.

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Q Did you have any talk with the defendant? A Yes, sir.

Q What did you say to him and what did he say to you? A He asked me why we were arresting him. I said that Tomas Cassesse, I said, was accusing him of exploding a bomb in the rear of his moving picture place and he said "I don't know anything about that. I didn't hear any bomb."

Q I didn't what? A "I didn't hear any bomb."

BY MR. ELLISON:

Q He said he did not hear any bomb? A That is what he said.

Q How far away is this restaurant from this place? A One block.

BY THE COURT:

Q You know the officer "Burns" from the department of combustibles, don't you? A I do.

Q Did you get to that backyard before or after him? A I think I got there ahead of him.

Q Were you in the yard when he was there? A I knew he was there but I am not positive as I found him in there or came in there after I was there.

Q Well, I want to know which? A I know he was there when I was there.

Q Where was he when you got there? A That I don't remember. There was such a confusion there, you know.

Q How many other people were in the back yard when you got there? A I should judge two or three.

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Q What? A I should judge there were a couple of people there. Cassesse was there with us part of the time, and the drug store man from his window, he was hollering about the damage, and people from the windows.

Q Well, I am not talking about people from the windows, I am talking about the people that were in the back yard? A Well I don't exactly remember how many there were there.

Q To the best of your recollection? It is important that you should remember? A Maybe two or three, maybe five.

Q There before you came in there? A About six.

Q Were in the yard before you came in there? A I think there were six.

Q And what were they doing when you came in? A They were looking around the yard.

Q No, was the officer from the Department of Combustibles among those four or five people that were there ahead of you?

A That I don't remember. I know I saw this man looking around and about the place, and I asked him who he was.

Q You saw him looking around too? A Yes, sir.

Q Did you see him pick up anything? A I saw him pick up a little box, a couple of small little boxes which had fallen from the drug store window.

Q Now, then, was he looking when you came in there is the question? A That I don't remember. If your Honor will permit me, Inspector Burns, that was the first time I ever saw

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him, but Egan I have seen time and time again.

Q You mean the man from the Bureau of Combustibles?

A Well, Burns, he claims he was from the Bureau of Combustibles, but I have never seen him.

Q You mean the officer from the Bureau of Combustibles?

A Yes, Burns, the fireman; he said he was from the Bureau of Combustibles but I never seen him before.

Q But you saw him there? A I saw him there, but ---

Q Well, now, I want to know whether you saw him when you came in there? A That I don't remember.

Q He says that when he came there there were some officers in the building? A I don't remember if he was there ahead of us, or we were there ahead of him.

Q Did you go into the building first, or into the back yard? A We went into the moving picture place first, and from there into the back yard.

Q He said he came in through the back yard, and when he came in there the officers were in the building. Now, will that help you to say whether you were in there or not? A That I don't remember.

BY MR. BRANDE:

Q You say you were standing at the corner of 12th street and First avenue? A I was.

Q You went into this moving picture place quite often, didn't you? A I did.

Q You have been going in there for a number of years?

A Yes.

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Q And you know Mr. Cassesse? A I do.

Q You know his son? A I do.

Q Did you ever see this boy in there, the defendant?

A I don't remember ever seeing him in there.

Q Did Mr. Cassesse in the many years you have been going into that place ever complain to you about this boy (the defendant) making any disturbance in that place? A No, sir, not that I remember.

Q Mr. Cassesse has reported to you threatening letters that he had been receiving for some time? A Yes, some time ago.

Q Yes, that was last year, isn't that right? A Yes.

Q You and Detective Cararre, and other Italian detectives were investigating his matter? A Yes, sir.

Q And do you remember when there was a bomb found in his place, on First avenue, that did not explode? A No, sir.

Q Do you remember that? A No, sir.

Q That did not happen? A No, sir.

Q You read the letters that he is supposed to have received? A I think I did, yes.

Q And naturally you started to investigate to see whether you could do something for him? A Positively.

Q They were threatening letters --- to blow up the house, and so forth? A Yes.

Q Did you compare them with this defendant's handwriting?

MR. ELLISON: I object to that as immaterial to this

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issue.

THE COURT: Objection overruled.

Q When you got down --- what time did this occur? A Between 7:15 and 7:20 p. m.

Q That was around half past seven? A Between 7:15 and 7:20 p. m.

Q Well, you got down to the moving picture place? A Yes, sir.

Q And you went in there and helped to get the crowd out?
A Partly, yes.

Q You ought to know what you did down there; you were an officer and you saw a commotion down there and people injured-- you certainly helped, didn't you? A I helped part of it, yes, sir.

Q How long were you in the moving picture place? A About five or six minutes.

Q Only five or six minutes? A That's all.

Q Didn't you help anybody in there --- the injured? A How long does it take me? It doesn't take me a year.

Q It only took you five minutes in that crowded place of 300 people? A I said about five or six minutes.

Q Did you go to the telephone and ask for assistance, and telephone for an ambulance? A Other people looked after that.

Q Who was that? A Other policemen.

Q Who, Cararre? A Some uniformed officers that was there.

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Q And so after that you went into the yard, into the 11th street yard? A Yes.

Q After you had done all that? A Yes.

Q That is to say, investigated the moving picture place and spoke to Cassesse and his son --- after that you went into the yard, isn't that so? A yes.

Q When you got into the yard you found Mr. Burns in there?

A I don't remember if I found him there.

Q You say you found those matches in the yard? A I did.

Q And then you say you found some more matches on the person of the defendant? A Officer Cararre did that.

Q Who found them? A Officer Cararre found the matches in the defendant's vest pocket, in the station house -- the box.

Q Are these burnt matches (exhibiting to witness People's Exhibit 2)? A I presume they are.

Q Are they burnt matches? A Partly burned.

MR. ELLISON: I object to that, they speak for themselves, they are in evidence.

Q Are they burnt matches? A Partly burned.

Q And put out? A I don't know whether they were put out or went out.

Q How many boxes of matches have you ever seen like those before in your life (showing witness People's Exhibit 3)?

Objected to as immaterial. Objection overruled.

A I don't remember how many.

Q Did you read what particular brand of matches they

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are? A I did.

Q What are they?

(A remark is made by Mr. Ellison, which is inaudible to the stenographer.)

MR. BRANDE: Now, Mr. Ellison, I beg of you to stop that.

MR. ELLISON: I object to counsel making sport of this.

MR. BRANDE: This is very serious, there is no sport about it. If there is any sport I would like to see it.

Q Have you read the description upon this box of matches?

A When I found --- when they were found on his possession, yes, sir.

Q What is the particular brand of match that this box contains? A They are red matches.

Q I know, and they are matches too, but what brand of matches are they? A I don't remember the name.

Q And you say that you never saw another box of matches like this? A I said I remembered seeing a lot --- a number, but I don't know how many.

Q So you would not swear that these matches belonged to this box of matches, would you --- the so-called burnt matches?

A No, I am not a match expert.

Q What time did you get to this cafe in 12th street, Officer? A About twelve or fifteen minutes after the bomb exploded.

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Q And whom did you go there with? A With Detective Cararre and Thomas Cassesse? A Yes, sir.

Q You say that Cararre and you were on 12th street? A Yes.

Q And First avenue? A Yes, sir.

Q Now, this was on a Saturday night? A Yes, sir.

Q Now, the west side of the avenue is what you call a market place, is it not? A Yes, sir.

Q And the east side is all stores -- that is, the east side of the avenue? A Yes.

Q And the particular corner on 11th street and First avenue is lit up by electric light, strong electric light from this moving picture place and the drug store, is it not?

A Yes.

Q As soon as you heard the explosion you immediately ran down First avenue to 11th street? A Certainly.

Q Did you see Cassesse, whom you have known for years, or his son, on the corner? A No, but I saw him in the front of the moving picture, or near the door there.

Q When you got down there? A Yes, sir.

Q Near the door; coming out? A That I don't remember, whether he was coming out or going in.

Q Wasn't it Cassesse that went into the cafe on 12th street and took hold of this boy and turned him over to you and Officer Cararre? A No, sir, we were there with him.

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Q But didn't he go in? A Certainly, he went in with us.

Q He went in with you? A Yes, sir.

Q You went in first? A I don't remember that, if I went in first.

Q Who laid hands on this defendant, the first one of you three? A I don't remember that.

MR. BRANDE: Let me have the watches, the property of this defendant, that were taken from him.

(Certain articles handed to Mr. Brande.)

Q You went out after this defendant because of an explosion down on 11th street and First avenue, did you not, and after you placed him under arrest in connection with a bomb explosion, and the investigation thereof, you took from his possession all of this personal property (indicating)?

A Yes, sir.

Q That is to say, a small penknife? A Yes, sir.

Q A key? A Yes, sir.

Q And the little pocketbook? A Yes, sir.

Q The pawnticket? A Yes, sir.

Q Some receipt of some kind -- I don't know what that is; a gold watch? A Yes, sir.

Q And another bracelet watch? A Yes, sir.

Q Now they had nothing to do with the bomb, did they?

A No.

Q Can you assign any reason why this property was taken from the defendant if he was not charged with the crime of

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larceny? A Yes, sir.

Q What was the reason? A Because it struck me funny that a man should have a ladies' gold watch, attached to a bracelet in his possession.

Q In other words, if I commit a misdemeanor by going down in the Subway with a smoking cigar, and I have got a lady's ring on my finger you are going to take it off me? A That is a different case altogether.

Q Well, I mean assuming that you did not know me, of course?
A That is a different thing altogether.

Q You don't know what is the hour by this watch now, do you? A I do not.

Q And you don't know what it is on this clock? A I do not.

(Counsel held a watch in his hand while putting the last question.)

Q And you heard Officer Cararre testify in the police court, didn't you? A I did.

Q And he said he did not know?

MR. ELLISON: I object to that as immaterial to this issue.

THE COURT: You do not know anybody who makes any claim on this property, do you?

THE WITNESS: I do not, not up to the present time.

THE COURT: And you took it all from the defendant?

THE WITNESS: I did.

MR. BRANDE: May I ask that this property belong to us?

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THE COURT: It appears to so far, but I have no disposition to make any orders about it until this proceeding is over --- this trial.

Q In fairness do you remember my asking Officer Cararre in the police court on the adjourned day whether he knew at what time those clocks (watches) were stopped? You remember that, you were right next to me.

MR. ELLISON: I object to that as immaterial to this issue. That matter has been passed upon by your Honor any number of times. Mr. Brande knows that is not the proper way to introduce evidence.

THE COURT: Objection overruled.

A I don't remember.

Q Why, now, weren't you right next to me? A I don't remember whether I was next to you.

Q You know the police court is not like this court, where we are so far apart; we all stand up against the rail, one against the other, don't you know that? A I know that, yes.

Q Weren't we all up there together, the defendant, you, Cararre, myself, all up against the rail, speaking to the judge? A Yes.

Q And you know I speak pretty loud as a rule, don't you?

Objected to. Objection sustained.

Q And didn't I ask Officer Cararre, "do you remember, or can you tell me now, what time this clock stopped", and he said "No".

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MR. ELLISON: Objected to as immaterial and incompetent.

THE COURT: Objection overruled.

A I didn't take down the minutes of that case.

Q No, I am asking you whether or not --- A No, I don't remember.

Q Your memory is very bad?

Objected to. Objection sustained.

Q In the police court on the following day of the arrest Mr. Cassesse was there, was he not, the old gentleman? A Yes.

THE COURT: We are not going into that trial.

MR. BRANDE: No.

THE COURT: We do not care who was there.

MR. BRANDE: I must get that on the record.

THE COURT: If you want to ask this officer about anything he did, or swore to, or testimony he gave, all right. I won't allow you to go into what else was done, or where it was done, in any other court.

MR. BRANDE: I just want to show those who were present in court; I am not going into the trial.

THE COURT: You may show it in some other way. I am not going to lose any more time with this witness now. If you want to get anything from him that he did there, I am well satisfied.

MR. BRANDE: No; I just want to get who was present.

THE COURT: I won't allow you to. We have had

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that before.

MR. BRANDE: Exception.

Q Do you remember Judge Appleton and Mr. Cararre having a dispute in this matter?

MR. ELLISON: Objected to as incompetent.

THE COURT: About what?

MR. BRANDE: About the evidence, that he had not sufficient evidence, that he was going to discharge the defendant.

THE COURT: I will allow it.

Q Do you remember that? A One day, yes.

Q Don't you remember that Judge Appleton said to him, "Now, officer, I am the judge here and not you; if you haven't got any further evidence than you have produced I am going to discharge the defendant", and it was then Cararre says, "Give me a couple of days more", and it was granted, - isn't that so?
A Yes, sir.

Q And that was the day Mr. Cassesse was in court, his son was in court, the piano player was in court, you were in court --- isn't that so? And no additional witnesses were called until two days afterwards, - isn't that right?

THE COURT: Yes or no to that.

A Yes, sir.

Q And it was on the adjourned day for the first time that the son Cassesse took the stand and that this so-called special officer came in, isn't that right? A Well, don't

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Q you think we want to investigate a case like this?

THE COURT: Answer it yes or no.

Q Isn't that so? A yes.

Q And to-day for the first time that employee of Cassesse comes in, isn't that so?

MR. ELLISON: This is all objected to as immaterial to this issue.

THE COURT: Objection overruled.

A Yes, sir.

BY THE COURT:

Q And did you have a talk with the father and the son about this matter at any time? A The night of the explosion.

Q With both of them? A Yes, sir.

Q In what language did you talk? A Italian.

Q To both of them? A Yes, sir.

MR. ELLISON: Does your Honor direct the return of this property to the defendant?

THE COURT: I do not think there will be any orders now until the close of the proceeding. You will be here, Officer, in the proceeding, to-morrow morning, in this trial. You brought that property into the trial, didn't you?

THE WITNESS: Yes, sir.

THE COURT: You can take possession of it until the close of the trial.

MR. ELLISON: People rest.

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(The Court now declares an adjournment to Thursday, January 30th, 1913, first duly admonishing the jury in accordance with law.)

New York, January 30th, 1913.

TRIAL RESUMED.

MR. ELLISON: If the Court please, the Seventh juror has just requested that he would like to have one of the People's Witnesses recalled: Mr. Goodman.

H Y M A N G O O D M A N, recalled, having been previously duly sworn, testifies as follows:

EXAMINED BY THE SEVENTH JUROR:

Q You testified yesterday that you opened the exit doors and looked if your lights were lit; is that right? A Yes, sir.

Q And you saw the defendant in the yard, is that right? A Passing through the yard, sir.

Q Was he coming in or going out? A Going out, sir.

Q He was going out? A Yes, sir.

Q How far away from the exit doors is this hole which was caused by the bomb? A Why, that was right near; that was right in the corner of the door.

Q Well, how far? Was it in the front of the door, or to the side of the door? A I can't tell you how far it was.

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THE COURT: Consider that part of the railing there at your left side the door. Put your hand on the floor, near that railing, at the spot which would show the distance of the hole from the door that the juror talked about?

THE WITNESS: It was right about there (indicating about three to four inches).

Q How many lights were up above on this exit? A One light.

Q Does that light up that yard sufficiently for people to go out in case of fire? A Yes, sir.

Q It does? A Yes, sir.

BY THE FOURTH JUROR:

Q Are you the man that sweeps the theatre? A No, sir.

Q You didn't see any match sticks in the theatre on the floor? A No, sir.

BY MR. ELLISON:

Q Is that an electric light? A Yes, sir.

Q Are all the lights in the place electric lights? A Yes, sir.

Q Did you know this defendant before that night? A Yes, sir.

Q How long a time had you seen him? A Oh, I had seen him quite often as long as I had worked there.

Q How long was that? A I am working there for the last two years.

BY THE COURT:

Q How far were you from the door at thentime of the ex-

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plosion? A Just a few feet. About say a yard and a half, no more.

Q What were you doing out in the yard when you saw this man there? A I was looking to see if my exit light was lit, and after that I closed my door.

Q You have charge of the lights? A Yes, sir -- the exit.

Q That is your particular work? A Yes, sir, the exit light.

Q Did you ever speak to this man? A No, sir.

Q About how many times do you think you saw him? A Oh, I saw him a great many times, I can't just count off how many times I seen him.

Q He was going towards 11th street when you saw him in the yard? A Yes, sir.

Q Was the light good and clear in that back yard? A Yes, sir.

BY MR. BRANDE:

Q Do you mean to tell the Court and jury that you were in the yard proper? A No, sir.

Q Wait a moment. In the yard proper on 11th street, looking at your light, when you saw the defendant in that yard? A I was not in the yard, sir.

Q Well, you said you opened up the door? A Yes, sir.

Q To see if the light was lit? A Yes, sir.

Q Did you open up the exit door? A Yes, sir.

Q Well, that is a door of what dimensions --- how big is

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it? A Oh, I can't tell how wide it is is. It is a pretty wide door.

Q How long have you been working there? A Two years.

Q And you don't know how big that door is?

MR. ELLISON: I would suggest that Mr. Brande reduce the tone of his voice.

THE COURT: Yes, I think that is a very timely suggestion.

MR. BRANDE: If nature has ordained that voice to me I cannot throw it away.

MR. ELLISON: It was all right yesterday afternoon, and there were no more fits, either.

THE COURT: I am very thankful to you when you speak in a loud tone of voice, but there are different tones even in loud voices.

MR. BRANDE: I will have to cultivate it some way or other.

Q Now, two years you have been working there? A Yes, sir.

Q How many times during the two years had you gone out that exit door? A Going out?

Q Yes. A I don't go out, no, sir.

Q Never went out by that door? A No, sir.

Q So it just happened by a miracle on this night that you went to see the light there and opened the door? A I opened the night every night, sir.

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Q And go into the yard? A No, sir.

Q You don't go into the public yard? A No, sir.

Q Isn't it true that this door is about six feet --- seven feet in height and about five feet wide? A Yes, sir.

Q It is on hinges, isn't it? A Yes, sir.

Q Wasn't the bomb near the part of the door where the hinges were? A Yes, sir.

Q So that you were inside of the moving picture place?

A Yes, sir.

Q And the door opens in towards the yard? A Yes, sir.

Q So that the door was in front of you? A Yes, sir.

Q And you say that through that you saw a man in the yard? A I seen a man going in the yard, going out towards 11th street, going out from the exit towards 11th street.

Q That yard leads from the entrance to the tenement house, doesn't it? A It leads to 11th street, too.

Q No, I mean you have got to go into the yard to go upstairs? A No, sir.

Q To go to the toilets? A Yes, sir.

Q Part of the tenants of that house use those toilets?

A Yes, sir.

Q How many toilets are in that yard? A I don't know.

Q How big is the yard? A Not so very big.

Q How big --- as big as that? A I can't tell, I never measured it.

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BY THE COURT:

Q How wide, about, is it? From your chair towards that wall, how far will the yard extend in width? A In width I think it is about six or seven foot.

Q Six or seven feet wide, and from the back of the theatre at the door, how wide is it there --- about six or seven?

A From the very end of the theatre to the exit door?

Q Yes. A No, sir, it is about more than that.

Q Well, about how much? A It is about 15, if I ain't mistaken. I don't know; I never measured that.

Q About 15. Now, what is the distance from the door to the sidewalk on 11th street, about? A About ten or twelve feet.

Q Isn't it more than that? A I don't know, sir.

Q It covers the width of the house on the corner for one thing, which I suppose is twenty feet at least?

MR. BRANDE: The building on the corner is about 25 or more feet, and the yard runs straight from the street to the rear end.

THE COURT: Yes, passes the rear of that building for twenty-five feet, probably twenty to twenty-five feet and goes to the theatre door.

THE WITNESS: Yes, sir.

Q Now, it is more than twenty-five feet, isn't it?

A No, sir.

MR. ELLISON: It is marked 24 feet on Mr. Brande's

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diagram.

MR. BRANDE: Oh, what a mistake I made!

MR. ELLISON: Now, there is no need of that. It says twenty-four feet from 11th street over to the door; that is what your Honor wanted.

THE COURT: Yes, because the door is right at the corner of the building, next to the building on the corner; that would be about twenty-four feet. Now, we will say, then, that is twenty-four feet from that back exit to the sidewalk. Had this man when you saw him leaving the yard gone about half the distance towards the sidewalk?

THE WITNESS: Yes, sir, pretty near to the door there. There is another door leading to the street.

Q How near to the street was he when you saw him?

A A couple of feet.

Q How many? A Four or five feet.

Q So then he was twenty feet away from the door? A Yes, sir, about that.

Q And within four feet of the sidewalk? A Yes, sir.

Q When you opened the door? A Yes, sir.

Q Does the door open on a level with the yard, or is there a step going down? A It is a step going down to the moving pictures.

Q Is there a step going down from that door to the yard?

A No, sir.

Q So that the door opens on a level with the surface

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of the yard? A Yes, sir.

Q How high above the yard? A The step, sir?

Q Yes; the door opens right on the level with the surface of the yard, does it? A Yes, sir.

Q And this machine of which you speak was in front of the door? A It was in the corner of the door.

Q How do you know? A That is where the bomb exploded, right in the corner; that is where the damage was made.

Q Well, if it was in front of the door on the level of the earth with the door, would not the door have pushed it away when you opened it? A No, sir, there was nothing to force it open, unless the bomb forced it open.

Q No, but you opened the door to look at the lights? A Yes, sir.

Q And you saw a man within four feet on 11th street?

A Yes, sir.

Q And the hole was right in front of the door, 4 inches from it? A Yes, sir.

Q Did you open the door to that width? A No, sir.

Q How much? A Just about six or seven inches; barely just put my head up and see the light.

Q Did you put your head up to that hole? A Yes, sir.

Q Why didn't you open the door full to look out? A We didn't do that, just only in case of accident we throw our doors wide open.

Q So you just did it enough to stick your head out?

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A Enough to stick my head out to see if my light is lit.

Q And to see the man passing up near 11th street? A Yes, sir. After I close my door I can see the whole front on 11th street there.

BY MR. BRANDE:

Q And the man had his back turned to you? A He had his side face.

Q Was he clean shaven? A I don't know.

Q He was not shaved? A I can't tell, sir.

Q You don't know whether he needed a shave? A No, sir.

Q The reason for you to stick your head up out of that door is to see whether the light is lit? A Yes, sir.

Q You are not the electrician? A No, sir.

Q And that is supposed to be a fire exit, isn't it?

A Yes, sir.

Q And that is the emergency exit in case of fire? A Not that alone;—there is another one there besides that.

Q That is one there? A Yes, sir.

Q And this is a 20 foot front moving picture place, is it not? A I don't know, I can't tell the measure.

Q And in the month of November on the 9th of November, of 1912, you, the man who takes precautions to see that the fire exit is all right, wait until fifteen minutes or twenty minutes past seven to see if a light is up? A That is when I come for supper, sir, I look if my light is up.

Q Never mind; I want to know if you are there to guard

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that light for the protection of the people who come in there, and guard them against fire, by reason of getting out of that door, that it takes you until a quarter after seven? A It is according to what time I get ---

Q Wait a moment. In the month of November at 9 o'clock was it dark? What time did it get dark in the month of November? A I can't tell, sir.

Q You don't know? A I don't know, sir.

Q Don't you know in the month of November it gets dark at six o'clock? A I don't know.

Q You don't know anything about any business other than the fact that you say you stuck your head out of the door, - do you know anything else about the case? A No, sir; that is what I know.

Q Where is your shield? A I left it in the house.

Q And you are appointed by no one? A No, sir.

Q And you carry a shield?

MR. ELLISON: Your Honor, we are wasting time. He has been all over this. The witness said yesterday he had a shield and was not appointed, and we are going all over it again.

MR. BRANDE: If a man goes around impersonating an officer, I want to know if he impersonates a witness.

Q (Question repeated) A Yes, sir.

Q What does it say on that shield? A S. & G., private Detective. I have got statements just the same as it is stamped

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on the shield (producing two papers).

MR. ELLISON: I object to this line of inquiry as immaterial to the issue as to who blew this place up with a bomb.

MR. BRANDE: And who is lying.

THE COURT: Yes, I think we have gone far enough in that direction.

Q The bomb went through the door -- that is, the explosion, it went right through the door? A Yes, sir.

Q It blew the door in -- that is, a part of the door?

A Yes, sir.

Q About six or seven inches in diameter? A I don't know how much it blew it in, but it blew it in.

Q Well, it didn't blow the whole door in? A No, sir.

Q Just a hole? A Yes, sir.

Q Is that right? A Yes, sir.

Q Just as his Honor has suggested, if you had opened that door and there had been a bomb there, the door would have driven it away?

MR. ELLISON: I object to that question. I didn't know that your Honor suggested anything like that.

THE COURT: I don't think that I made ---

MR. ELLISON: I think bombs as Mr. Brande knows are very small articles.

THE COURT: I do not think I drew any conclusion. I may have looked in that direction, but not quite the whole distance.

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MR. BRANDE: May I at this time say this, in justice to all. I never made this request before in my life ---

THE COURT: You cannot ask this man to draw conclusions. He is simply here testifying to what he believes to be fact.

MR. BRANDE: I have never made this request before. Suppose the court would permit the jury in proper custody to go up and view these premises, and satisfy themselves. That is the only way the jury can intelligently decide this case on the testimony we have. This diagram is a meagre thing we have from a man who had meagre experience and who is not a civil engineer or anything else.

THE COURT: I think the jury understand the situation very thoroughly from the diagrams that are here.

MR. BRANDE: But the door is not here, and the yard is not here.

THE COURT: No, nor the hole in the door.

MR. BRANDE: Nor the hole in the door; nor what part of the door the hole was in. If this door was opened by this man, as he said he opened it ---

THE COURT: Well, I do not feel inclined to do that, Mr. Brande. If you insist upon it, why, I shall do it.

MR. BRANDE: I respectfully request it, your Honor, in this case, because it is a very important case to this boy.

MR. ELLISON: It is a very important case to the

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People too.

MR. BRANDE: In proper custody I think the jury ought to be permitted to go. It is at the corner of 11th street and First avenue.

THE COURT: Of course, Gentlemen, this thing is within the discretion of the Court, and I do not care to put you to that trouble, but it strikes me that there is some reason in the attorney's request, and it may be that having viewed these premises you may be able to Judge of the testimony concerning the place with a great deal more accuracy or satisfaction to yourselves. The Court will have to appoint a person who will show you the place to be viewed, and I shall do that, and I shall ask you to go in the company of officers of the Court, and I shall have to charge you before you go, because your going there is no part of the trial at all; I shall admonish you before you go that you are not to discuss among yourselves, or with others, any other matter of the evidence, while you are on your trip there, or back, and you are not to form or express any opinion upon these matters until the case is finally submitted to you. But you may go and view those premises, and I direct you to go for the purpose, as I have said of listening thereafter to the testimony about the premises in a way to satisfy yourselves perhaps better than if you had not seen the premises. Mr. Roberts, I shall ask you to show the gentlemen of the jury the place, on the southeast

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corner of 11th street and First avenue.

MR. ELLISON: 187 First avenue, and it goes through to 402 East 11th street.

THE COURT: And the defendant and his counsel may accompany the jurors and ~~the~~ officer of the court. I shall appoint the captain and his attendant here, and I think that will be enough.

MR. PRESS: Well, your Honor says the defendant and his counsel will be going there?

THE COURT: The defendant and his counsel may attend.

MR. PRESS: And I presume --

THE COURT: And the defendant, of course, will be in the custody of the officers.

MR. PRESS: And of course the District Attorney will be permitted to have a representative there?

THE COURT: Oh, certainly. Probably that won't be the cause of any delay up there.

MR. PRESS: When do you contemplate having that visit made?

THE COURT: Do it now.

MR. PRESS: If that is the case, could we take a jury in the Daly case and take a few pleas here before we adjourn?

THE COURT: Certainly, I think that can be done. You will have to return back to court here, Gentlemen. I think

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that can be done. I don't know how long it will take, and I don't know how the gentlemen will proceed there. Gentlemen, you remember that you are not to discuss these matters up there, you are just to view it in the light of the testimony which you have received.

Mr. Brande, it is understood that neither you nor the District Attorney are to say a word or point out a thing or make a remark or address a word to the jury, or speak in their presence in regard to this matter?

MR. BRANDE: I do not feel like going up at all, if that is the matter.

MR. ELLISON: I think it is much better if neither one of us goes.

MR. BRANDE: I will not go up at all. Let the jury go up.

THE COURT: All right, and leave the prisoner here. Better so.

MR. BRANDE: I will go up, and Mr. Ellison and I will look on.

THE COURT: No, that is a better arrangement. Let the jury go up unaccompanied by any one except the officers appointed and the defendant remains here.

MR. BRANDE: Yes, I am perfectly satisfied.

MR. PRESS: There is no objection to letting the jury have the diagram, is there?

MR. BRANDE: I will consent to the jury taking the

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exhibit.

THE COURT: No. They may look at the exhibit here, and then leave it. They are just to go and view the premises.

Now, Gentlemen, before you go, I want to caution you once more that while your view of these premises is not under the constitution a part of the trial, nevertheless it has such a bearing on it that it is quite important that while you are viewing the premises and on your way to and from the premises you do not allow any person to speak or communicate with you at all, nor to do so yourselves on any subject connected with the trial. Now, all you will do is to go there and have the premises painted out by some person who knows them and that person is going with you, and that person may examine the premises, and view them in the light of the testimony already received. The defendant has waived his right on going with you, and neither the defendant nor his counsel nor the District Attorney will attend, and I think that is a much more prudent method.

Let it be of record that the defendant waives his right of being present at the view of the premises by the jury.

(The jury now depart with the officers.)

At 2:30 p. m., the jury report back to the Court in company with the officers.

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THE COURT: I am now going to admonish you gentlemen not to discuss any matter connected with this trial, nor to form or express any opinion upon it until the case is finally submitted to you, and you will be here tomorrow morning at half past ten.

(ADJOURNED to January 31st, 1913, at 10:30 a. m.)

CASE #1665

ORIGINAL

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THE PEOPLE vs SPADAFORA.

New York, January 31st, 1913.

TRIAL RESUMED.

Owing to the illness of Mr. Brande, an adjournment is directed by the Court till 2 p. m., the Court first duly admonishing the jury in accordance with law.

2 p. m., Trial Resumed.

Owing to the illness of Mr. Brande, who now appears, and owing to the further fact that one of the jurors states that he has to leave town on Monday, Tuesday, Wednesday and Thursday of the coming week, an adjournment of the trial is directed by the Court to Friday, February 7th, 1913, at 10:30 a. m.

The Court now duly admonishes the jury in accordance with law, and adjourns the trial to next Friday.

(ADJOURNED to Friday, February 7, 1913, at 10:30 a.m.)

*Feby. 7-1913.
Trial Resumed*

Defendant acquitted.

CASE #1665