

**START**

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**CASE**

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

.....  
THE PEOPLE OF THE STATE OF NEW YORK:

-against-

LEON JUNG

#1481

:BEFORE:

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

: and a Jury.  
:

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New York May 23, 1911.

Indictment filed March 24, 1910.

Indicted for policy possession and keeping a  
place and so forth.

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

For People: Assistant District Attorney Edward J. McGuire

For defendant: Mr. Robert M. Moore.

Peter P. McLoughlin,  
Official Stenographer.

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(The Jury was selected and sworn.)

The Court then admonished the Jury calling their attention to Section 415 of the Code of Criminal Procedure and adjourned the further trial of the case until tomorrow May 24, 1911 at 10:30 O'clock.

New York May 24, 1911

T R I A L    R E S U M E D .

Mr. Edward J. McGuire, Assistant District Attorney, opened the case on behalf of the People as follows:

Gentlemen of the Jury, the defendant has been indicted by the Grand Jury, under two sections of the Penal Law, for the crime of keeping a place where the game of policy was conducted, and for the offense of having in his possession writings papers or documents representing or being a game of chance where the interests in numbers sold upon a bet in what is commonly called policy, in the nature of a bet, wager or insurance upon the drawing or drawn numbers of any public or private lottery.

The case will develop from the testimony of the witnesses who are very few and who will tell the facts very briefly, so I shall not pause to go into the circumstances of it. The evidence is very brief in substance

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and will be told by the witnesses in the course of the trial.

O F F I C E R J A M E S K I E R N A N, a witness called on behalf of the People, being duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. McGUIRE:

Q What precinct? A Detective Bureau.

Q Mr. Kiernan, what is your business? A Patrolman.

Q In the uniformed force of the police department of the City of New York? A Yes sir.

Q Are you assigned to detective duty at police headquarters? A Yes sir.

Q In the month of February 1910 were you in that same employment and assignment to duty? A No sir; I was assigned to plain clothes duty in the second inspection District.

Q Where were the headquarters of that District? A The office was at 300 Mulberry Street.

Q That is police headquarters, is it not? A That is the old police headquarters.

Q The old police headquarters? A Yes sir.

Q Do you know the defendant Leon Jung? A Yes sir.

Q Who sits at the table? A Yes sir.

Q Did you see him on the 13th of February 1910? A Yes sir.

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Q Tell us the circumstances under which you saw him?

A Well about 10:30 P. M. February 13, 1910, in company with officer Flynn, we entered the premises #20 Pell Street, the basement, and as we were going down, as we entered the premises we saw two Chinamen leave a room in the rear of the basement. I went to the rear of the basement and they went up a flight of stairs. On our way back the door of this room opened and this defendant was about to come out. I went into the room with officer Flynn and found a number of papers, \$25.89 in cash and two books on the desk in front of this defendant.

Q Was this in the County of New York? A Yes sir.

Q What time in the day? A 10:30 P. M.

Q Did you have any conversation with the defendant at the time? A We counted the money; told the defendant, officer Flynn told the defendant he placed him under arrest and he demanded from officer Flynn a receipt for the money which officer Flynn gave him.

Q Was there any other conversation you can recall at the time? A No sir.

Q Where was the defendant when you arrested him? A He was in this room in the basement.

Q Where were these books and papers you have described? A On the desk in front of the defendant.

Q Where was the defendant standing, at the desk, or near the desk? A He was standing right at the desk.

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Q I show you some money and some papers and ask you whether you saw those before at the Pell Street address where you found the defendant, at the time that you have stated?

A Yes sir.

MR. McGUIRE: I offer them in evidence, if your Honor please.

MR. MOORE: I would like to shorten the trial if I can but I don't think that this evidence has been made competent as against the defendant and yet I am willing to concede ---I will admit the possession of certain thing ~~of money~~ for the purposes of the trial. If he will pick out what he calls policy slips I will admit the possession of them for the purposes of the trial.

MR. McGUIRE: I do not like to try a criminal case on admissions. I submit the evidence is competent in answer to the objection of counsel, because it appears that the defendant required a receipt from the police officers which was given to him at the time for the papers which they took. I submit that is sufficient proof of at least a claim to ownership for the purposes of the prosecution.

THE COURT: Admitted.

(Marked People's Exhibit 1)

MR. McGUIRE: The exhibit consists of two one dollar bills and two slips of paper which bear certain charac-

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ters not in the English language.

Q At the time that you saw these four objects which have been marked in evidence collectively as exhibit 1 in what condition were they, Mr. Kiernan? A The two bills were pinned to the two slips of paper on the desk.

Q As they are now? A Yes sir.

Q Is that it? A Yes sir.

Q I show you an envelope containing coins in the United States currency. Will you look at the envelope and its contents?

(Witness does so)

Q Now having looked at it I ask you whether that envelope and its contents was produced to the District Attorney from the custody of the Police Department by you? A Yes sir; by officer Flynn and I.

Q When did you first see the money that is in that envelope? A On February 13, at 10:30 P. M. on the desk in the basement on #20 Pell Street.

Q At that time and place the defendant Leon Jung was there? A Yes sir.

Q Is this money that you have referred to <sup>which is</sup> \$25.89, the money that was taken by you and Flynn at that time? A Yes sir.

MR. McGUIRE: I offer that in evidence.

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THE COURT: Admitted.

(Marked People's Exhibit 2 in evidence)

Q Where was the money in respect to the defendant, Jung when you first saw it? A On the desk in a sort of a round tin dish.

Q How near was the defendant to it? A Right in front of the desk.

Q Did you keep a copy of the receipt which you say Flynn gave the defendant? A No sir.

MR. McGUIRE: I ask the defendant or his counsel to produce the receipt.

(No response)

MR. McGUIRE: The receipt is not produced.

Q Can you state what was the contents of the paper which you call the receipt? A That officer Flynn received \$25.89 from the defendant as evidence.

Q Taken as evidence? A He gave the defendant the receipt.

Q As that time he gave him the receipt was there any conversation between the defendant and Flynn and yourself? A Only to giving the receipt, why he demanded it, he demanded he wanted a receipt for the money, that it was his money.

Q What did Flynn or yourself say to him after he made that statement? A Flynn simply said he would give him a receipt for it.

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Q Mr. Kiernan I show you some papers and books and ask you whether you were present at the Pell Street address upon the night that you say in February 1910 when you say you saw the defendant Leon Jung as stated by you? A Yes sir; these were the books and papers on the desk in front of the defendant.

Q Who else was in the room beside the defendant and the two officers? A That is all that was in the room.

Q Did you see the defendant do anything in that room when you and Flynn first went into the room? A There was a safe there which he attempted to close when we went in.

Q Tell us what he did with regard to the safe? A Well the safe was open and as we entered he attempted to close the safe.

Q Did he go over and take hold of the door of the safe? A Yes sir.

Q Did he close the door, do you know? A He tried to do close it over but couldn't it because I seized the door, got my leg in between the door of the safe.

Q Did he say anything at that time? A He said something in Chinese which I could not understand.

MR. McGUIRE: I offer in evidence these books and papers identified by the witness with the stipulation that I have made with Mr. Moore, Defendant's counsel, that in case of an appeal, such portions only of these

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documents may be printed as shall be agreed upon by the District Attorney and himself subject to correction or decision of any disputed matter by the Court.

(Marked People's Exhibits 3 and 4)

BY THE COURT:

Q Which of these defendants you say was standing near the table? A There was only one defendant there, your Honor.

MR. McGUIRE: We are only trying Leon Jung, this Chinaman on the end here who sits right next to the Court officer. There are separate indictments. Leon Jung is the one we are now trying.

BY MR. McGUIRE:

Q Now after you gave this receipt as was stated, what happened? A Well, we took the defendant to the station house--took the evidence and the defendant to the station house.

Q Took the money and books and papers which you have identified with the defendant and officer Flynn and you proceeded to the station house, did you? A Yes sir.

CROSS EXAMINATION BY MR. MOORE:

Q Was I correct when I understood you to say when you and your brother officer went into this place there were three Chinamen in there and two ran out the back way? A As we

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entered the basement I saw two Chinamen leave that room.

Q Going out the back way? A Going to the back of the basement, the rear of the basement and up a flight of stairs.

Q Those two men you never apprehended, did you? A No sir.

Q This one, as I understand you to say, you followed up the back way after those two men, and when you came back this man was just coming out of the door of this room? A We did not follow up the back way, just went as far as the stairs, and returned and this defendant had ~~at~~ the door open and we went into the room.

Q Was it correct when you said he was just at the door, just coming out of the room? A He was at the entrance of the door there.

Q Just one other word. Are you acquainted with the premises 20 Pell Street? A Yes sir.

Q Have been for how long? A Well, about a year or two

Q There are quite a number of Chinamen interested in those premises are there not? A Well, I couldn't say anything about that.

Q You go there very nearly every day, don't you officer?

A I haven't been there in over a year.

Q At this time? A Yes sir; I went there for the

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purpose of an inspection of the place.

Q What is that? A (Answer repeated)

Q Did you know who the proprietor of that place is? A  
No sir.

Q Did you know Tom Jung? A Yes sir.

Q Is he the proprietor of that place? A Not that I  
know of.

Q From what you learned in your tours of inspection and  
so forth going there almost daily, during the time you  
were on that beat? A I don't know whether he is the proprie-  
tor or not, I know there is a company or concern there.

J O H N F L Y N N, a witness for the people, being duly  
sworn, testifies as follows:

DIRECT EXAMINATION BY MR. McGUIRE:

Q What precinct? A Second Precinct.

Q Now, Mr. Flynn, on the 13th of February 1910 did you  
see the defendant Leon Jung? A Yes sir.

Q Where was he? A #20 Pell Street, in the basement.

Q Is that in the City and County of New York? A Yes  
sir.

Q Who was with you at that time? A Officer Kiernan.

Q Now tell us what happened at that time and place.

A Well, we entered the basement about 10:30 P. M. Sunday eve-  
ing, and I went to the rear and saw two Chinamen running

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away in the rear, up the back stairway.

Q Where had they come from, did you see? A They came from the rear room partitioned off by itself in the basement.

Q Did you see where they went? A They went up the stair-back way, the rear stairs.

Q After that what did you do? A Came back again and entered this room.

Q The same room from which the men ran out? A Yes sir.

Q Who was there? A The defendant.

Q Anybody else? A No sir.

Q Now tell us what occurred in the room? A Well, the defendant was there; there was a safe open and a desk and all this material here was on the desk and about \$25. and some cents in money. The defendant tried to get these books into the safe and we prevented him from doing so.

Q Tell us what he did with regard to the books? Did he take them into his hands? A Yes sir.

Q After he got them in his hands where did he go? A He remained in the room.

Q Did he go over towards the safe? A He tried to go to the safe, yes sir.

Q Answer the question yes or no? A Yes sir.

Q Who stopped him? A Well Kiernan and I stood both

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in his way.

Q Did he put his hand on the safe? A No sir.

Q Did he put his hand on the safe door? A No sir.

Q Did he say anything at the time? A Yes sir; he asked me for a receipt for the money.

Q What did you say to him? A I gave him the receipt.

Q Have you got that receipt now? A No sir.

Q Do you know what was in it? A Well I just stated "Received from Officer Flynn and Kiernan twenty five dollars and eighty nine cents taken from me while under arrest in such a number in Pell Street".

Q I ask you to look at the paper, the two papers and the two dollar bills marked People's Exhibits in this case. Were these present at the time you made the arrest of the defendant, at the time you saw the defendant at the Pell Street address as you have stated? A Yes sir.

Q I show you an envelope containing coins in United States currency which was marked People's Exhibit 2 in this case. Was that envelope and its contents---or were the contents of that envelope, the money that was on the table at the time you saw the defendant as you have stated? A Yes sir; pretty near all small money.

Q I show you the books and papers that are marked collectively People's Exhibit 3 this morning, are these papers that were on the table in that room at the time you

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had the transactions with the defendant which you have stated here? A Yes sir; I put my initials on the back.

Q You put your initials on the books did you? A Yes sir.

Q Do you see them there now? A Yes sir; J. F.

Q Now after you gave the man the receipt what did you do, Mr. Flynn? A Placed him under arrest, sir, took him around to Elizabeth Street Station House.

Q What did you do with the books and money and papers?

A Brought them to the police court the next morning.

Q Did you take them to the station house with you at the same time you took the defendant? A Yes sir.

Q Where was the defendant standing when you came into the room? A He was at the entrance.

Q How near the table was he on which these things were? A Well near the desk, a very small room, very small.

Q How near the desk was he standing when you first saw him? A Well, I should judge about three feet---a small room.

Q Did he move over to the desk while you were in the room? A Yes sir; he went to the desk.

Q Did he take into his possession any of the papers?

Objected to; objection sustained.

THE COURT: Ask him what he did.

Q Tell us what you saw the defendant do in the room?

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A I saw him pick up these books and slips and put them together and try to go over to the safe and we prevented him from doing so.

THE COURT: Strike out what you tried to do.

Tell what you did.

Q After he took the books and papers in his hands, where did he go? A Towards the safe.

Q You and Kiernan, what did you do? A We didn't let him go to the safe.

Q You stopped him, did you? A Yes sir.

Q Who closed the safe? A The defendant.

Q After he closed the safe, what did he do regarding the combination lock? A He just turned the handle and tried it.

Q You saw him turn the combination lock? A Yes sir.

Q Did you try the safe after that to see whether it was closed? A No sir.

Q Did he? A Yes sir.

Q Was it closed or not? A I guess it was closed.

CROSS EXAMINATION BY MR. MOORE:

Q You heard the evidence of Mr. Kiernan here with reference to a safe, did you officer? A Part of it, yes sir.

Q Well is it true, is it a fact that when you went into

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the room he was trying to close the safe and you prevented him? A Not when we entered the room I don't think, he was at the door.

Q Well after you entered the room did he try to close the safe and you prevent him? A He tried to go to the safe with these books.

Q That is what I am asking you. Did he try to close the safe door and did you prevent him? A Yes sir.

Q The books were all lying on the table when you went into this room, weren't they? A They were on the desk.

Q On this desk? A Yes sir.

Q Everything that has been produced in court was lying on this desk when you went into this room? A Yes sir.

Q Were they not? A Yes sir.

Q The room was only about how many feet square? A A very small room, a desk and the safe filled it up, room for about three or four people.

Q What is that, four or five feet square? A I should judge about six or seven.

Q Was the door open when you passed that little room to go upstairs? A What door open?

Q Into this small room? A I didn't notice when we passed it, coming back it was.

Q When you came back after going to the foot of the stairs where the two men had run upstairs you saw this man

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about to leave this little room, didn't you? A He was at the entrance of the door.

Q Did you notice whether he was coming out of the door or not. A No sir.

Q Standing still? A Yes sir.

Q You took him back didn't you? A He was in the room.

Q He was standing at the entrance? A Yes sir. At the door.

Q You and your brother officer pushed him back into the room? A No sir.

Q How did you get in? A Walked in.

Q What did he do, back up? A Backed up to his desk, yes sir.

Q Then when he backed up to the desk you seized these papers and arrested him? A No sir, the defendant seized these papers and books.

Q You were sworn in the police court in this case, weren't you? A Yes sir, I suppose so.

Q Didn't you swear in the police court you found these papers on the desk, all of them?

MR. MCGUIRE: I submit that the proper form of that question should be the established form.

THE COURT: If the District Attorney insists upon it, of course, the proper method is to ask was such a

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question asked and was such an answer made.

MR. MOORE: There was not a question. I am asking him if---

THE COURT: I will allow it.

Q I want to know if you didn't swear to this that you found these papers on the desk?

MR. McGUIRE: I object to that. The proper question to ask is "was such a question asked and did you make such an answer."

THE COURT: I take it if he cares to get a statement from him concerning any previous statement which he has made that he is within his rights.

MR. McGUIRE: I withdraw the objection.

Q Did you swear to that, officer? A What is that.

Q Did you swear in the police court that you found all of the papers and money that you have testified in regard to here upon the desk in his room? A On the desk.

Q Yes? A Yes sir.

Q Now in the police court did you swear or make any reference at all to the defendant trying to grab these papers and trying to put them in the safe? A Probably I was not asked; probably --I might not have been asked in the police court.

Q Did you swear to any such thing? A I don't remember.

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Q U A N Y I C K N A M, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McGUIRE:

Q Where do you live? A 28 Henry Street.

Q Are you a native of China? A No sir, California.

Q You were born in New York? A No sir, California.

Q Are you familiar with---are you of Chinese parentage?

A Yes sir.

Q Are you familiar with the English language? A Both English and Chinese.

Q You are familiar with the Chinese language are you not?

A Yes sir.

Q Do you read Chinese? A Yes sir.

Q I show you the articles that were marked collectively People's Exhibit 1 in this case, and ask you in what language is the writing upon the papers that form a part of that exhibit? A That paper is the name---

Q Tell me in what language it is? A Chinese.

Q Will you read to the jury in English a translation of the characters, the contents of these two papers? A Yes sir. First is the name, Chow Lee.

Q Is that the name of a person? A No sir; I think---

MR. MOORE: I object to that "Chow Lee" speaks for itself what it is. He cannot characterize it. I

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object to his characterizing the paper. He can translate it and that is all he can do.

THE COURT: Yes.

MR. McGUIRE: That is all I am asking him to do.

THE WITNESS: Chow Lee, the name of the---

THE COURT: You are simply to read in English the characters that you find on that paper and make no explanation at all, but simply give the English of what you find on that paper.

THE WITNESS: Chow Lee. The name of the firm.

THE COURT: Strike that out.

BY MR. McGUIRE:

Q Witness give us the translation of the Chinese characters that are on these papers and nothing else, please.

A "Chow Lee, Fong Sie, 556, deliver \$1.12" That is the same like this (Indicating)

Q The second slip you are now reading. This is the one you are now reading, the second one of the series? A

"Chow Lee, Hung How, 556, deliver \$1.12".

Q Is that a full translation of these papers? A Yes sir.

MR. MOORE: Let me see those papers.

MR. McGUIRE: I am not quite through with them yet.

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BY MR. MCGUIRE:

Q Is any of the matter which you have translated just now the name of any person?

MR. MOORE: I object to that.

THE WITNESS: The first name is.

MR. MOORE: I object to that, if the Court please. The name of a person, how is this witness to know.

MR. MCGUIRE: Why I submit that if I were translating from English into Chinese I might say that "John Smith" was a person's name.

THE COURT: Yes.

THE WITNESS: The first name "Chow Lee" in Chinese the custom is the firm name or the company name.

Q The name of a firm or company? A Yes sir; the next name is the customers name.

Q That is the name of a person, is it? A Yes sir:

MR. MOORE: I object to that, if the court please.

THE COURT: Strike it out, --the word customer-- and the jury are directed to disregard it. Now let the Stenographer read that translation.

(The Stenographer reads the testimony of the witness so far given)

Q Is Fong Sie the name of a person? A Yes sir.

Q Is Hung How the name of a person? A Yes sir.

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Q Is that the full contents of that paper. Have you translated all that appears on these two papers? A Well, except this balance down at the bottom, it is something like 56. Do you want me to explain.

Q I want to know is this all of the paper? A Just the same like that 56.

(Stricken out)

Q Do you say that you have not translated what appears at the bottom of both these papers? A Yes sir.

Q Will you translate the matter that appears at the bottom of both these papers? A 56; just the same like that up here, 56; 56 just the same like here, 56.

Q What does it mean? A Deliver a dollar and twelve cents.

MR. MOORE: He should read it all.

BY MR. McGUIRE:

Q Have you not translated all the signs there are on these papers? A No sir; not on the bottom.

Q Translate all there is on the paper. You need not read the translation already given, but translate this which you say you have not translated. I refer to one of the papers that has been marked in evidence in this case, People's Exhibit 1. Will you look at it? A Yes sir.

Q Will you translate it in its order? A Chow Lee, Chong, Hung How, 56, 5, 56, deliver \$1.12.

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Q Is that a full translation of the entire paper? A Yes sir.

Q What is written on the back of the paper there? A "Hung" just the same, one word, twenty days, that date is the 20th.

Q I show you the second one of these papers and I ask you to read that in the English language, translating it from the Chinese? A Chow Lee, Chong--Fong Sie.

Q What does Fong Sie mean? A A person's name, 56, 5, 56, deliver a dollar and twelve cents.

Q What is the matter on the back? A That is "Chow Som, Fong Sie."

Q What does Fong Sie mean? A A person's name, and the 3rd day of the month.

Q Is the matter that appears in the upper right hand corner of those two papers, the matter that you have translated Chow Lee Chong? A Yes sir. Chow Lee Chong.

Q Is that the matter that you have just translated, the firm name? A Yes sir; a company name, or any kind of a name.

Q I show you a portion of the papers that were marked People's Exhibit 3 in this case. Look them over and tell me whether you have seen any of them before. Have you seen any of them before? A Yes sir; the firm name I see there is two.

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Q Did you see any of those that I now show you before?

A In the police court.

Q You did see them, did you? A Yes sir.

Q Will you listen to my question. I ask you looking at the paper which I hand you, stating that they are part of People's Exhibit 3 in this case, whether you had ever seen before this day and time any of the papers which I showed? A I just to-day; when I seen that paper in the police court before.

Q You saw this in the police court before? A Yes sir.

Q Will you look at these papers now and state whether, with the exception of the name of a person other than the firm or company, they are substantially in the same form as to the two papers that you have just testified about? A Yes sir "Chow Lee Ching".

Q Wait a minute, witness. A Some of them is, one is not.

Q Give those that are not? A This one (Handing witness a paper).

Q Excepting for the ones you have just handed back to me your statement is that they are the same as the paper which you have just translated excepting for the name?

THE COURT: I take it the jury does not hear a thing this man is saying over there; I don't know whether you do or not.

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MR. McGUIRE: We are trying to come to some arrangement on the matter, and may I state, your Honor, subject to correction by the defendant's counsel if I err in any way what the witness has stated.

THE COURT: Let it appear from the stenographer's reading.

(The stenographer reads the last few answers of the witness)

MR. MOORE: I think we can shorten the case. These papers you now have, People's Exhibit 3, are similar to the two papers about which the witness has already testified except for the name of one of the parties is different in each instance.

MR. McGUIRE: The name other than the name of the firm or corporation?

MR. MOORE: Yes.

(Another paper is marked 3-A.)

Q I show you a paper which you just handed back to me, taken from a bundle which I showed you, and ask you to translate that paper? A This is in Chinese characters. You want me to translate it all.

Q From the Chinese into the English. A Constellation, Harvest, Nude, Tidal, Heavy, Diver, Successful, Render, Beautiful, Gracious, Plum, River, and at the bottom it is not in the same characters, the bottom is talking about some Chinese game.

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(The last part of the answer is stricken out.)

Q Just translate it? A This is the bottom, 8 to 12, 10 times, ticket 180. This is the first line. The other line is Constellation, Harvest, Nude, Tidal, Heavy, Diver, Successful, Render, Beautiful, Great, Plum, River, 8 to 12, 10 times, ticket, 180. Now the fourth line is go, year, rain, water, gate, winter, harmonize, terminated, high, nigh, 66. The other fourth line is beautiful, great, plum, river, arm, void, dispose, accumulate, plants, frost, 56, works clear or cloudy, it will be through, Yen How to play 482, \$3.73. The other one is clear, cloudy, works, must be through

MR. MOORE: Now I wish to ask, if the court please, that the stenographer read that translation.

(The stenographer reads the last answer of the witness.)

Q Now, have you translated all the characters on that slip? A Yes sir.

MR. McGUIRE: I ask that it be marked People's Exhibit 3-B.

Q I show you from a bundle of papers which were marked collectively Exhibit 3, a piece of paper, and I ask you to look at them and tell me whether the printed matter is all of the same meaning? A The printed matter?

Q Is all of the same meaning?

MR. MOORE: We will concede it.

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Q Is it? A The printed characters all the same meaning but the writing different.

Q The printed characters are all of the same meaning on each sheet? A Yes sir.

Q But the writing, as you call it, is different? A Yes sir.

Q Now, do you know the game of bachabue? A Yes sir.

Q What is its name in English?

MR. MOORE: I object to that if the Court please.

MR. McGUIRE: I submit it is a relevant fact, your Honor. Bachabue is a Chinese expression. I submit I am entitled to know the English name.

MR. MOORE: I object to it upon the ground that it is improper and calling for a conclusion.

THE COURT: I sustain the objection to that form of question.

Q Is it known by any other name than Bachabue?

THE COURT: What?

MR. McGUIRE: The game that I have asked him about. I asked him first if he knew the name of Bachabue.

THE WITNESS: Yes sir.

THE COURT: Where is the foundation for any such question?

MR. McGUIRE: I have to begin, your Honor, and show what the game of Bachabue is.



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THE COURT: You might just as well ask him if he knew the game of poker.

MR. McGUIRE: I will ask him if it has any other name.

THE COURT: You might lead up to it and lay the proper foundation.

MR. McGUIRE: I do not want to delay the trial unnecessarily, I withdraw the question.

Q How is the game of Bachabue played?

MR. MOORE: I object to that if the Court please upon the ground that it is immaterial in this case.

THE COURT: Objection sustained.

Q Look at the papers that you have just handed back to me and which were the subject of your last answer. Is the printed matter on these slips of paper, the printed matter that appears on the slips of paper used in the game of Bachabue? A Yes sir.

MR. MOORE: I object to that.

THE COURT: He may ask him about it but may not suggest his answers

THE COURT: No.

MR. McGUIRE: I thought we were going to shorten the case. If we are going to try it technically all right. I understood that there was to be no dispute about the fundamental facts, but now I am stopped by

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the objection to leading questions.

MR. MOORE: I have made my contention that this is not the game of policy.

MR. McGUIRE: How can we find out what it is.

MR. MOORE: Bachabue is another thing altogether.

MR. McGUIRE: If Mr. Moore will say he is going to hold me to strict proof I will follow the strict proof.

MR. MOORE: All I have said was as to the possession of these slips. We would admit that. Our contention is that it is not the game called policy. I shall put your to your proof as to that. That is the only defense we make.

MR. McGUIRE: I not accept the concession and I must prove this case by strict proof and I will proceed to do it.

MR. MOORE: That it is policy.

MR. McGUIRE: How can I establish a criterion for judgment until I establish the facts regarding the criterion.

THE COURT; Exactly so.

MR. McGUIRE: First I want to show what this is and that is what I am trying to show.

THE COURT: We can proceed without any discussion.

MR. McGUIRE: We will not have any leading questions.

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and we will go along according to the strict rules of evidence.

Q Did you ever play any game of chance with Chinamen, Mr. Witness?

Objected to. Objection overruled; exception.

Q How often have you played such games? A I---

THE COURT: It may be understood that your objection applies to all these questions.

MR. MOORE: Yes sir.

Exception.

Q How often have you played such games? A I played several times.

Q What are the names of several games of Chinese chance.

MR. MOORE: I object to that, if the Court please, on the ground that it is entirely immaterial.

THE COURT: Objection sustained. He may ask him the names of the games he has played.

Q What games have you played? A Bachabue.

MR. MOORE: The question is whether or not this thing that we have here is gambling game---

THE COURT: He is laying the foundation to questions of that character.

MR. McGUIRE: If counsel will allow me to prove what Bachabue is and how it is played I can proceed.

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I must show first what Bachabue is, because counsel insists that it is not policy.

Q. You have played the game of Bachabue? A. Yes sir.

Q. How is it played?

MR. MOORE: I object to that upon the ground it is immaterial in this case how Bachabue is played.

Objection overruled; exception.

THE COURT: Unless it is connected it will be stricken out. It is taken subject to your motion.

Q. Tell us how the game is played? A. You mean how I get in the play, or how that game is played.

Q. How is the game played? A. The game is played with these printed slips, what they call a ticket. We play a ten spot, what they call a face ticket.

Q. You say you get a ticket? A. Yes; a blank ticket from headquarters and the man takes up the blank tickets and marks ten spots black or blue or any kind of a color, from one cent up to a thousand dollars or ten thousand dollars you can play. Les than a ten spot, nine spots, you mark the ticket not less than 71 cents; 11 spots, that is more than ten spots, from 11 cents up to \$11,000. but the company only pay you \$5000. If you win day time, say three to four o'clock one drawing a day, 9 o'clock to 10 o'clock in the evening, two drawings, day and night, then the office is open one hour all the agents come in and the players go in.

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MR. MOORE: I object to this declaration of the witness that they went until the agents come in. I Object to that as a conclusion of this witness and not a description of the manner of playing the game, that they wait for the agents to come in; that certainly is not a description of the game or how it is played.

Objection overruled; exception.

THE COURT: If there is a place into which it is necessary to go to play the game, a statement as to where they go is quite competent.

MR. MOORE: It is quite obvious, if the Court please, that in describing the manner of playing any gambling game it is not necessary for the witness to say that it is played at 9 o'clock in the morning or 5 o'clock in the afternoon. If it can be played at all it can be played at 12 o'clock or 1 o'clock or 2 o'clock or 3 o'clock. It is not necessary to wait for the agent to come in.

MR. McGUIRE: Your Honor sees that counsel makes speeches instead of objecting. What I wanted to say to the Court was this; It seems to me, in answer to the gentleman, that if this game is played by means of two drawings, one in the morning and one in the evening, it is perfectly competent for the witness to say that the players go there to find out what the amount of the

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drawings are. Of course to strike it out of the case would be more comfortable to counsel.

Q Then what happens? A Then when the tickets are given to the proprietor of the game, then they have got this kind of books, registered.

Q He has a register, has he? A Yes sir; at the time they get 80 of these Chinese characters--

MR. MOORE: I object to that.

THE COURT: Objection overruled.

MR. MOORE: I object to his characterizing as characters, that is a conclusion of the witness.

Objection overruled; exception.

Q Proceed? A Then he squeezes each one like a little ball, the 80 characters, divided up into twenty each part, four twenties make eighty, and any person inside the room picks out four numbers, one to four, each number is compared, each lot of the 80 characters; then another person, the player or the agent, takes up number one and then number one is used for the drawing that showing who is winning.

Q That is thw winning number? A Yes sir; so the winning is.

Q How often do they draw to ascertain the winning numbers? A Well twenty winning characters in the main play, a ten spot ticket and one five spot from the drawing is win-

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ning; if he plays ten cents he gets 20 cents back; if he plays 56 cents he gets a dollar and twelve cents back; but if he plays a nine spot ticket, ten is a straight ticket, a nine spot ticket wins a four spot, then he gets sixteen cents and a five spot coming back; therefore that ticket cost a little more money.

Q Where are the winnings paid? A In the same company.

Q In the same place where the drawings are had? A Yes sir; the daytime drawing you collect the money in the evening; if in the evening you win, you collect the money the next morning.

MR. McGUIRE: I submit that I am entitled to lead the witness to get out the facts regarding the matters that are pertinent to this transaction in respect to the manner of playing this game in its details now that the witness has testified.

THE COURT: If you think you are capable of leading in a matter of that character you may do so.

MR. McGUIRE: I submit, if your Honor please, that I am now entitled to ask him some questions which will develop the facts.

THE COURT: All right, lead.

BY MR. McGUIRE:

Q Is there a slip used in the playing of this game?

A Yes sir.

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MR. MOORE: I object to that, characterizing it as a slip.

MR. McGUIRE: Now may we have one objection that the questions are leading and not be interrupted?

THE COURT: I do not think while you are leading he ought to be limited to one objection. I think that is an objectionable question which goes to the very issue, or it may have to do with the issue.

Q You referred to the choice of certain characters in this game? A Yes sir.

Q Where are those characters placed? A Any part of the ticket.

Q They are printed on the ticket, are they not? A Yes sir.

Q Now I show you the papers which were just given you, and ask you whether the matters in green ink on that paper--  
A That is used for the playing.

Q Please be quiet and listen to my question. I ask you whether the characters in green ink on these papers are the characters in the series from which the characters are drawn in the game of Bachabue? A Yes sir.

MR. McGUIRE: I ask that this be marked in evidence.

Marked People's Exhibit 3-C.

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Q After the player has chosen the characters from the paper on which they appear in the series, as you have testified, in what way is the number or characters chosen by him indicated? A There is a black mark.

Q Indicated by a black mark put upon the slip? A Yes sir.

Q How many characters are there in that series that are printed upon the slip?

MR. MOORE: I object to his characterizing it as a slip, if the Court please.

MR. McGUIRE: I withdraw the question.

Q How many characters are imprinted upon the paper from which the choice of the player is made? A 80.

Q How many of those characters may a player take? A From a nine spot up to a twenty spot, and you get a combination ticket you can play 80 spots.

Q After the player has selected his characters and they have been marked upon the paper upon which is shown a series or numbers of characters what is done with that paper?

MR. MOORE: I object to that "characters or numbers" on the ground that there is no evidence here that there are any numbers used in this game.

Objection overruled; exception.

MR. McGUIRE: I will strike out the word "numbers".

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Q (Question repeated as follows:) After the player has selected his characters and they have been marked upon the paper on which is shown a series of characters what is done with that paper? A Then they go to the proprietor.

Q They go, one of them, to the proprietor? A Yes sir.

Q And the other one is given to the player? A They keep that themselves, yes sir, certainly.

Q The player gets one and the proprietor keeps the other does he? A Yes sir.

Q In what way, if any, is the paper kept by the proprietor distinguished so as to show its correspondence with the paper that the player takes? A They got his name on there

Q They put his name on it, do they? A Yes sir.

Q Now at the drawing does the player attend; does the player come to the drawing? A Some wait until the drawing comes out; some persons wait until the drawing comes out then if he wins or loses then he goes away; some go out a little earlier.

Q Then they come back to find out what the result of the drawing was? A Some of them come back to the company or to one man, and they deliver the drawings, from each drawing, they go out to the stores and speak.

Q Is this game played in other places besides the place where the proprietor carries on his business? A Through some agents, so many agents.

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Q How many agents are there in New York, do you know? \*

MR. MOORE: I object to that.

THE COURT: Does he know, that is the question.

Q Do you know how many there are? A About a couple of dozen.

THE COURT: Not "about" that is not the question that was asked.

Q Do you know how many agents there are? A I don't know the names, but I know there is agents walk around there from store to store and laundries.

Q How many agents of that kind do you know.

MR. MOORE: I object to that on the ground it is incompetent inadmissible and hearsay as against this defendant.

MR. McGUIRE: We are establishing the game.

MR. MOORE: Proof that the game is being played in New York does not make any difference.

THE COURT: I will allow the question.

A I know a few of them.

Q How many do you know? A I know four or five, but I know others and I don't know the names.

Strickn out.

Q You were not asked how many of the agents were known to you by name, you were asked how many agents you knew of, How many do you know altogether in that way? A Well, you

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mean the men who go out selling the tickets or the men in the headquarters, different kinds of agents, some men is out of town.

THE COURT: Find out if he knows what is meant by agents.

THE WITNESS: Some agents.

Q What do you mean by the word agents? A I thought the you asked me about agents, to go to the laundrymen, laundrymen can't come to Chinatown all the way, and then they go out.

Q That is what I meant, the men go in the laundry and other places and sell these slips to the Chinamen.

MR. MOORE: I object to the word "slips".

Q Play this game with the Chinamen, how many of them are there to your knowledge? A Well, about two or three dozen.

Q Now have you been present at the drawings that are made at the game of Bachabue? A Yes sir.

Q I show you a slip? A That is a Yen.

Q Is it a similar slip to that used in the drawing? A Yes sir; that is to make out the drawing.

Q I will take out the word slip and I will ask you is there a piece of paper like that used in the drawings?

MR. MOORE: I object to that, if the Court please, upon the ground that the witness has not stated when

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he was present at a drawing. The evidence may be too remote if it was shown that at the time when he saw this game played it was two or five or ten years ago; he might have seen it played ten years ago.

Objection overruled; exception.

THE COURT: It is simply descriptive of the game.

THE WITNESS: That is a character from the green printed slip.

(Stricken out)

Q Is there a piece of paper like that used in the drawings? A Yes sir.

Q What is the name of the piece of paper like that?

A Yen.

Q You mean the Chinese name--- what is the English translation? A "Human"

Q The Chinese character on that piece of paper translated by you is "Human"? A Yes sir.

Q But what is this piece of paper called in the game, what is the English name of the paper itself? A That is a character.

Q Now is there not a character prepared in the form similar to this, corresponding to each one the 80 characters printed upon the paper containing the series of characters used in the playing of this game? A Yes sir.

Q Now after the player selects from the series the num-

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ber of characters he desires to play and they are blotted upon the paper, that is in duplicate, he takes his part away and leaves the other part with the player---are not the characters on the slip reproduced separately on individual pieces of paper like that and used in the drawing? A Yes sir.

Q Did each of those papers contain the individual characters rolled up? A Yes sir.

Q And made into a ball? A Yes sir.

Q And put into a jar or dish? A Any kind of a --- you make out four parts, twenty in each part, maybe you use a glass or a jar of any kind.

Q A dish or a jar or a glass? A Yes sir.

Q Anything that will contain paper rolled in rolls or balls? A Yes sir.

Q From that jar or glass or dish one draws a certain number of these characters don't they? A Yes sir.

Q How many characters are drawn? A Twenty.

Q Then the pieces of paper containing these characters that have been drawn from the vessel, as stated, are they not opened and set down upon a piece of paper and do they not constitute the winning numbers? A Yes sir.

Q Where are the winning numbers announced, from the  
A  
headquarters, From the headquarters, yes sir.

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Q I show you the papers that were marked People's Exhibit 3-B---

MR. McGUIRE: I offer in evidence, if your Honor please, the square piece of paper about which the witness last testified.

MR. MOORE: I object to its being received in evidence as not being produced from us.

MR. McGUIRE: I will stipulate that this paper did not come from the defendant, if you have no other objection.

(Marked People's Exhibit 6)

Q I show you the papers which were marked People's exhibit 3-C.

MR. McGUIRE: It is stipulated that the paper produced, marked in evidence as People's Exhibit 6 was not produced from the custody of the defendant.

MR. MOORE: With that I have no objection.

Q I show you papers which have been marked People's Exhibit 3-C and another paper printed in red and green and ask you to compare the green matters, or the matter in green ink upon the second paper with the matter in green that appears upon the papers that are marked People's Exhibit 3-C and to announce the result of the comparison? A The other is the day time but not in the same company.

Q Have you looked at the papers that I have just handed you? A Yes sir.

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Q Is the matter in green ink upon the second paper shown you identical with the matter printed in green ink upon the other papers shown? A Just the same.

Q Is the second paper, does the second paper shown you contain the 80 characters used in the Chinese game of Bachabue? A Yes sir.

Q Is there anything in the playing of the game of Bachabue, is there any entry or mark, or is there any mark I will say, placed upon the paper used by the player indicating whether it is day or night drawing? A Only the slips printed day and night.

Q Is there a mark put upon the paper to indicate whether it is in the day or night drawing? A Yes sir.

Q I show you the papers People's Exhibit -30 and ask you whether there is any mark upon those papers which indicate whether it is day or night drawings?

MR. MOORE: I object to that as calling for a conclusion. If you wish him to translate anything on the paper I have no objection.

Objection overruled; exception.

Q Yes or no? A Yes sir.

MR. MOORE: Now I move to strike out his answer, if the Court please, on the ground that the paper speaks for itself and is the best evidence as to what

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ir contains.

Motion denied; exception.

Q Will you look at the paper which I referred to?

Marked People's Exhibit 7)

Q Will you look at the paper which has just been marked People's Exhibit 7 and tell me whether it bears any mark indicating whether the drawing is a day or night drawing? A Yes sir.

MR. MOORE: Same objection if the Court please.

THE COURT: He is asking him if the writing indicates something.

MR. MOORE: I submit that the only way to determine what the writing indicates is to have the writing itself given to the Court and then the Court will say what it indicates.

MR. McGUIRE: I am proving the method of playing the game---

MR. MOORE: I am addressing the court.

THE COURT: I understand the nature of your objection but this man is being examined as an expert in the game, its signs and the various means and methods by which the game is played.

MR. MOORE: That is true, but when a paper is shown a witness and he is asked if there is anything on that

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paper that signifies anything, then he is taking the well-settled rule from the jury and from the defendant-- the paper is in evidence, it is a paper writing, and it is on that paper that we have a right to determine and not his opinion of what it is.

THE COURT: It is simply being marked for identification.

MR. MOORE: He is asked if there is anything on that paper that indicates to his mind something. His mind is no better than mine or the Judge's or the Jury's. What is on that paper has a right to be put in and to be read and then if there is anything that the jury can draw any inference from all right, but it is not for this man to say that that paper indicates something to his mind.

MR. McGUIRE: May I be permitted to say the things that come into my mind after the gentleman is completely through.

MR. MOORE: If you withdraw that question and put another.

MR. McGUIRE: I will make no promises, I submit that I am entitled to be heard by the court on the matter. I have had a paper marked for identification. Your Honor it has been testified about several times.

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Its contents are not directly in evidence and have not been put in. I asked the witness about the playing of the game and show him a piece of paper and ask him whether upon the paper which he says contains a series of numbers, there is any mark that indicates whether it was day or night drawing? That is my question.

THE COURT: Is there anything upon it to indicate what?

MR. McGUIRE: Whether it was night or day.

THE COURT: You may ask him what is upon it and then ask him what that indicates if you care to.

MR. McGUIRE: I thought I would begin somewhere in order to make it intelligent to the jury but as counsel seems to be bothered about it I will withdraw that last question.

Q You said that upon the slip or paper which contains a series of numbers that was used in this game of Bachabue, that there were marks placed indicating whether the drawing was day or night drawing? A Yes sir.

THE COURT: Why not produce the paper and ask him what the marks indicate?

MR. McGUIRE: This was without reference to any paper. I am calling to the witness's mind preliminary to asking him a question.

THE COURT: Are you going to show him the paper

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and ask him if this indicates night or day drawing.

MR. McGUIRE: I want to show, first, under the rules of the game that that paper is used and is marked night or day drawing, then I show him the paper.

Q Now I show you the paper marked People's Exhibit 3-C and farther Exhibit 3, and ask you to read me, translate into English rather, the black marks on that first sheet? A The mark or the writing?

Q The black marks on the first sheet? A You mean to give the translation?

Q Will you start there and give that matter? A No sire; they come this way (Illustrating)

Q Read it as it is? A Fruit.

Q Now, you didn't understand me. Will you read the matter in black ink, in black ink repeated upon that paper? A Yes sir; valuable, plumb, how, gate, water, tasteless, roller, rude, contract, when, title.

Q You are translating the paper, aren't you? A But you want all?

Q Haven't you just read to me the names of the characters that are answered by black ink markings upon that paper? A Yes sir, that is it.

Q Isn't that what you have done? A Yes sir.

Q You have read to me the characters that have been cancelled by black marks upon that paper? A Yes sir.

Q That appear in the series of 80 figures? A Yes sir.

Q Will you read me the writing on the margin? A Yen  
Sow, 12 characters, country, sky, ground, to play 108.

Q What else is on there? A Chow Lee, night time.

Q Wont you translate from Chinese into English? A Chow  
Lee.

MR. MOORE: I would ask the stenographer to read  
that.

(The Stenographer reads)

MR. McGUIRE: Counsel wants the record read, your  
Honor.

MR. MOORE: We have it now.

Q Have you read all that appears on that, the writing?

A Yes sir.

Q Now that is the first of those sheets, is it not?

A Yes sir.

Q The one that is marked A, that is the one you have  
just translated is the first of the sheets, the one marked A?

A Yes sir.

Q Now, will you read the second of the sheets, the one  
that is marked B--translate it? A Chow Lee.

Q Into English from the Chinese, not referring to the  
obliterated characters in green ink? A Chow Lee night  
company.

Q "Hem Chong" means night time? A Yes sir; "Chow Lee,

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night time, Chung Low, heave, 90.

Q Did you read all of that? A Yes sir.

Q Is Chow Lee the name of any person? A I don't know; only the company's name.

Q Is that the company's name? A Yes sir.

Q Chow Lee? A Yes sir.

MR. MOORE: Will you read me that last answer.

(The stenographer reads).

Q Is Xhung Low the name of a person? A Yes sir.

Q And the 90 is that the figures, is there anything else there besides figures? A About the amount they played, 90.

Q What does it say? A 90.

Q Will you look at the other eight sheets of that exhibit that has just been shown you, and tell me whether they are in substance the same as the one you have just translated excepting for the name of the person other than the firm name, as you call it, and the amount? A Chow Lee.

Q I asked you to look at the other sheets and saw whether in in substance, they are the same exhibit that have the name of a person other than the firm name in them, and the amount of the figures? A Yes sir.

Q Now will you look at the paper which you have marked People's Exhibit 7 for identification, is the green matter on

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that paper the same as the characters in green ink upon People's Exhibit 3-C? A Yes sir.

Q What is the translation of the red matter? A The red matter is the time and the company name.

Q What does it say? A Yok Tong, day company.

Q What does that mean? A That is the company's name?

Q That is the name of the company? A Yes sir.

Q What is the rest of it? A "Day times".

(The Court then admonished the jury calling their attention to Section 415 of the Code of Criminal Procedure and took a recess until 2 o'clock.)

After Recess.

T R I A L R E S U M E D.

Q U A N Y I C K N A M, a witness for the people recalled.

DIRECT EXAMINATION CONTINUED

BY MR. MCGUIRE:

Q I show you a bundle of papers, part of Exhibit 3, and I ask you to look them over and tell me whether the matter printed in green ink upon them is identical with the matter printed in green ink upon People's Exhibit 3-C? A The green printed characters is---all these appear on the first one.

Q Will you listen to my question. I asked you to look

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at the papers that I handed you and tell me whether the matter upon their face printed in green ink is substantially the same as the matter printed in green ink upon that set of papers which has been marked People's Exhibit 3-C ?

A Yes sir; it is the same, day time and night time.

MR. McGUIRE: I move to strike out the answer as not responsive.

THE COURT: Strike it out.

MR. MOORE: I will concede for the purposes of the record that they are identical.

THE WITNESS: Same is day or night.

MR. MOORE: I concede they are---

MR. McGUIRE: The defendant concedes, for the record, your Honor, that the matter printed in green ink on the bundle of papers shown the witness and being a portion of People's Exhibit 3 in evidence is identical with the matter printed in green ink upon the papers composing People's Exhibit 3-C.

MR. MOORE: Correct.

BY MR. McGUIRE:

Q I show you two books that were a portion of the matter marked People's Exhibit 3 and I ask you to look at the first page of one of those papers that I show you marked X and give a translation of the matter on that page from Chinese into English. A Chinese into English?

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Q Yes? A This is the Chinese---

Q Tranalate the matter that appears on that page from the Chinese into English, witness? A December 21, entry profit \$142., night time; in the same night, entry, profit \$56.80; 22nd delivered \$41.; night time, profit entry, \$56.30. 23rd day entry profit \$104. night time entry profit \$18.60.

Q Now, have you completed the first page? A Yes sir.

Q Now, I ask you to read the matter that appears on the outside of that book in Chinese characters? A Profit entry book."

Q Profit entry book? A Yes sir.

Q Now, I show you the other of the two books referred to which I shall mark Y, and I shall ask you to read the matter that is on the outside of the book? A That is "Great massacre, four corners".

Q Is that the best translation you can make of it? A Yes sir; that book---

Q What does that mean? A It means this, they played games, and the company was---this one means all the parties that came to play must lose in that game.

Q It means the company didn't lose anything, is that a motto? A I don't know.

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Q Translate each of these characters separately beginning with the first? A Great corner, that is 4.

Q Come to this (Indicating) and not anything else?

A Great four corners massacre.

Q Ripping? A No sir.

Q Measure? A No sir, massacre.

Q Great four corner massacre? A Yes sir.

Q That is a great killing? A Yes sir.

Q I refer to the first page of that book and I ask you to translate the writing that appears in it? A December 20, 9, and night, Chow Kee ticket \$1.12; Chung Choy ticket 252, \$2.52.

Q That is what I want to know? A Yes sir; Som How, ticket, \$3.60, the money \$3.60 (ding means ticket) Mon Lee, ticket \$5.50, Sum Leet \$2.00; it means ticket two, it means two slips.

Q He played twice? A No sir; maybe he played two different tickets \$1.12; Chung Lee, ticket \$1.12, Hung How ticket 56 cents; Kue How, ticket 84; Chung Lee, 2, \$11.12; Hung How, ticket 108, Chuck Lee, ticket, \$1.12; Wong Lee, ticket 56.

Q Is that all the matter now that appears on that page?

A Yes sir.

Q In each of the cases were the words at the head of the entries that you have read, the names of the persons?

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A Yes sir.\*

Q And what is the second? A Ticket.

Q The ticket? A Yes sir.

Q What is the next word? A That is the amount they played.

Q I show you on another page of that same book, two pieces of paper that are pinned upon the ticket, and I ask you whether those two pieces of paper that are pinned upon the page, as to the portions printed in green ink, are the same as the matter in green ink printed upon People's Exhibit 7? A Yes sir. You want me to point out these?

Q I ask you that question about the green ink printing?

A Yes sir.

Q Now will you translate for me the matter that is written around that green printed matter on those two pieces of paper. Do you understand me, translate for me the matter in black ink that is written around the square in which the green ink characters are printed. Translate this black matter there (Indicating)? A Hung How, heaven, 350.

Q Is Hung How the name of a man? A Yes sir; Hung How.

Q This is the second one you are reading from now?

A Yes sir; 500. So here he gave Hung How this ticket, two, to play \$8.50; just comparing those two slips.

Q Now having read or having translated the matter that

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appears in black ink upon those two pieces of paper that are fastened to that page, I ask you now to translate the page into English from Chinese, the page to which they are fastened which has been marked J. A "Hung How, ticket 2, \$8.60; Num How, ticket 56; Yon Lee, ticket 56; Ning Woy, ticket 224; Chin Wun, ticket 168; Wong Lee ticket 2, 98; Sing Gunn, ticket 250; Hop Lee, ticket 180; Lee How, ticket 56; Wing Quong, ticket 56; Sang Ho, ticket 28; Wah Lee, ticket, 112.

Q Now, do you find on that page that you have just read a copy of the matter that appears in black ink upon the two sheets of paper that are pinned to the page? A This second line?

Q The second line is identical with which one on which page? A The person's name as two tickets, and the same person's name.

Q The question is whether upon the page upon which those two slips are fastened there appears the same matter there that in black ink appears upon either of these slips?

A Yes sir.

MR. MOORE: I object to that as improper and calling for a conclusion.

MR. MCGUIRE: It is not a conclusion; it is a fact.

Q Does it? A Yes sir; the second line (Marked J)

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MR. MOORE: I think he should show what the paper states and whether it is the same or not. Is for us to say.

Q Now you have told us about the drawing of the winning numbers; what are the odds that are given to the player?

A Well, any character you choose yourself.

Q Now suppose you choose ten of the characters, how many of them must come out in the drawing as winning characters, before you can get any money back? A Five spots.

Q You must have at least five? A Yes sir.

Q You must choose at least five of the drawn characters before you can win anything? A Yes sir.

Q How much do you win when you have chosen? A If I pay one dollar I get two dollars.

Q You double your money? A Yes sir.

Q At the time you choose the winning numbers do you pay the player of the game, the proprietor of the game, the money that you bet? A I pay the proprietor first; after finding out the winning then the next drawing I go there and collect.

Q You pay the proprietor the money at the time you make a choice of your characters, don't you? A Yes sir.

Q Then when you win, if you do, he pays you your money back with your winnings, doesn't he? A Yes sir.

Q What are the odds in case you choose more than five

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of the winning numbers or characters? A If I win six characters, for one dollar I get \$20. back.

Q If you choose 7 what happens? A I get \$200. back if I play one dollar.

Q If you choose eight? A I get \$1000.

Q If you choose nine? A I get \$2000.

Q If you choose ten? A \$4000.

CROSS EXAMINATION BY MR. MOORE:

Q In your testimony with reference to People's Exhibit 3, marked individually Y you state that there appears on that first page the word ticket. Now will you kindly take a pencil and indicate here whereabouts the word ticket appears, what character represents ticket? A Ding.

Q Just put your finger on the character that means ticket?

A (Witness does so)

Q You say that is ticket? A Yes sir.

MR. McGUIRE: I submit that is not fair. The witness did not testify as counsel states in the question. He said that the character there was "Ding".

THE COURT: I will allow the question.

Q You did translate it ticket, didn't you? A The meaning is ticket.

Q That is what you say now? A I say "Ding".

Q I am not unfair to you when I say that you translate

that character that you put a ring around as "ticket"? Am I?

A That is ding.

Q Is that ticket? A The meaning is ticket.

Q In English do you say that character means ticket?

A In Chinese it means ticket.

Q Then if you translate it into English you would take it for ticket? A What is that.

Q Translating it into English does it mean ticket or doesn't it? A That Chinese is called Ding Bue, that is the same as American ticket.

Q That means a ticket, is that individual, that character, is that character individual? A It is ding, it means bue and bue means ticket.

Q Did you hear what I said. Doesn't that character in English mean individual; look at it again and see (indicating)--look at it and see if it doesn't mean individual? A Yes sir.

Q Answer that question. Does it mean individual? A It means "ding" and ding is---

Q Does it mean individual? A Individual ticket.

Q Yes or no to that question? A Yes sir.

Q Does the witness mean to say when he used the word "ding" does he mean the English word thing. Will you ask him that?

BY MR. MOORE:

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Q Do you mean the English word "thing" when you say ding? A It means what the Americans call a ticket. The Chinese---

BY MR. MOORE:

Q I understood you to say in answer to my question that that means individual; am I right or am I not. You were sworn, were you not, before Judge Malone in a Chinese Policy case that I tried ~~hex~~ about two months ago? A Yes sir.

Q Now, on that trial you were shown a printed paper identical with this, were you not, People's Exhibit 7?

MR. McGUIRE: I submit that that is improper to have him testify to what took place before Judge Malone.

MR. MOORE: I will show it directly.

MR. McGUIRE: I submit the question is improper, your Honor.

THE COURT: I will allow the question.

Q That is true, is it not? A This one or some other one?

Q Identical; as to printed matter? A Yes sir.

Q As a matter of fact these first twenty lines are from a Chinese primer are they not? A Yes sir.

Q Now I show you this book and ask you if that is the primer? A Yes sir.

MR. MOORE: Now I ask to have the primer marked for identification.

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Marked Defendant's Exhibit A.

Q I show you now another book and ask you if that is a correct translation into English of the first twenty lines of that Chinese school book? A That is a translation.

Q Now just answer my question? A That is Chinese writing like the slips.

Q Did you hear my question, Is that a correct translation of the first twenty lines into English? A Not correct one by one; the characters one by one.

Q Do you now say it is not a correct translation. I am asking you if you do say it. Do you now say that this is not a correct translation of the first twenty lines? A It has two meanings; the translation of the words one by one; this is a translation by the whole meaning.

Q Is that a correct translation or isn't it? A It is for correct, the meaning not by each character; something like the American ----

THE COURT: Strike the last part out.

Q Did I show you this same book in the trial where you were examined as a witness before Judge Malone, and ask you if these first twenty lines were a correct translation of a paper identical in character with this, and did you answer yes?

MR. McGUIRE: I object to that as immaterial irrelevant and improper cross examination.

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THE COURT: I will allow the question.

A I answered at that time--

Q Did you or didn't you? A I said the meaning is correct, but not by the words.

Q Did you answer that way? A I did not.

Q You did not? A No sir.

Q You say you did not? A Yes sir.

Q Did you say you did not? A No sir, I did not; I answered you in the same way as now as to the meaning it is correct, but not by each character, each word.

Q Do you understand that when you are translating some things in a foreign language into the English language?

A Well, it was two meanings.

Q When you translate something in a foreign language into the English language you give it meaning in the English? A But not each word.

Q These are all the words? A Now simply the first word "heaven" you can call it sky, the next one is earth, you can call it ground; each character has a different meaning.

Q Is that a substantially correct translation of these first twenty lines? A That is only correct by the meaning, not by each character; if you pick out each character it has no meaning in that book at all.

Q Now I will ask you this? You have examined this book?

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A Yes sir; I examined it; I can tell without looking at it.

Q This is a published book which purports to give a correct translation? A That is of the meaning.

Q Do you say that you are a better student of the English language --- A Now, Mr. Moore, will you let me ask you one word?

MR. MCGUIRE: I object to that. If this book is now in evidence the question is not proper. It ought to go in evidence before questions are asked about its contents.

BY MR. MOORE:

Q Now I ask you if this book does not purport to give a correct translation of the first twenty lines.

MR. MCGUIRE: I object to that as improper unless the book is in evidence.

THE COURT: Objection sustained.

MR. MOORE: May I be heard. If this is a correct translation I will make it competent by this witness; otherwise I could not prove it in any event, but I think I can show him any piece of paper and ask him if it is a correct translation.

THE COURT: You may ask him that. You are asking him if it does not purport to be a correct translation.

Q I will ask you if that is a correct translation? A

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correct by the meaning, not by the words.

Q Is it a correct translation according to the meaning of the characters that you have read? A If translated one by one, 80 words have no meaning in that book at all.

Q Is it a correct translation according to meaning?

MR. MCGUIRE: Hasn't the question been answered?

THE WITNESS: Yes sir.

MR. MOORE: very well, now, I offer the book in evidence if the court please, the first twenty lines of this translation.

MR. MCGUIRE: You are speaking of the matter you asked the witness about?

MR. MOORE: Yes.

(Marked Defendant's Exhibit B.)

MR. MOORE: I am offering the first twenty lines. I offer the first numbered twenty lines about which I have interrogated the witness.

(Marked Defendant's Exhibit B.)

MR. MOORE then reads Defendant's Exhibit B to the jury as follows: "The heavens are of sombre hue. The earth is yellow. The whole universe at the creation was one wide waste. The sun reaches the meridian and declines. The moon waxes and then wanes. In divisions and constellations the stars are arranged. Winter and summer alternately prevail. The Autumn is for

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ingathering; and the Winter, for hoarding up.

The intercalary portion of time completes the year.

Music harmonizes the two principles of nature.

Clouds ascend and cause the fall of rain.

The dews congeal and form hoar-frost.

Gold is found in the river Li.

The jadestone is obtained from Kwun-lun mountains.

Of swords, the most distinguished was one name Ku-kuch;

Of pearls, the finest are those called "night splendor";

Of fruits, the most excellent are damsons and plums;

Of vegetables, the most valuable are mustard and ginger.

Sea water is saline, and river water, fresh.

The scaly tribes swim in the water, the feathered ones

fly in the air. With the dragon-robed ministers, the

fire-ranked emperor, The rulers wearing bird-adorned

garments, and the sovereign of men.

Q How long since you have played this game that you have described to us this afternoon? A What do you say.

Q How long since you have played this gambling game that you have described this afternoon? A Oh, I played it about a few years ago.

Q Have you played it for ten years, within the last ten

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years? A Not so long.

Q Isn't it a fact that you are not permitted to go into any gambling room in Chinatown? A Well, I was in there several times.

Q Are you permitted to enter? A Since making the raid of the games so I couldn't go.

Q Are you permitted if you are known, to enter any gambling room in Chinatown? A Now, you can't go in there now.

Q Didn't you swear before Judge Malone that you are not permitted to enter any of these places?

Objected to.

THE WITNESS: At the time I made the raid myself.

MR. MCGUIRE: I object to that. He should follow the rule laid down in such examinations. If counsel wants to examine on this matter he knows the way to do it and this is not the way.

Q Did you swear before Judge Malone that you were not permitted to enter any gambling place in Chinatown, did you say that? A I said from the time I made the raid, and after that the Chinese gamblers don't let me in; not all the time, only most of the time.

Q I am asking you if when you were examined just a few weeks ago before Judge Malone if you did not swear you were not permitted to enter any gambling place in Chinatown? A Yes sir.

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Q You have not been permitted for ten years, did you swear to that? A About four years and a few months; I remember that.

Q Did you say the way you got in was by disguising yourself? A After that, yes sir, certainly.

A (Question repeated)? A I know, you must point out the time, what time.

Q Did you swear to that? A What time?

Q Any time within the last four years? A Four years?

Q I ask you if you didn't swear before Judge Malone that you had not been permitted to enter any gambling house in Chinatown for the last four years, and that the way that you got in was by disguising yourself? A Yes sir.

Q You now say that the obstacle has been overcome and you can go in without difficulty? A What do you say?

Q Do you now say that you do not have to disguise yourself when you want to go into gambling places in Chinatown? A Yes sir.

Q Do you know of any reason why you are not prohibited now to go in when you were ~~not~~ four weeks ago?

Objected to; objection sustained.

Q Did you say that the way you disguised yourself was to put your glasses on and a slouch hat?

Objected to. Objection sustained.

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MR. MOORE: This goes to credibility.

THE COURT: We have had enough of this for that purpose.

Q Now I show you this paper Exhibit 1 and ask you to read that again for me? A ["Chow Lee, Ching, Fong Sie, 56, 5, 56, deliver \$1.12"]

Q Instead of deliver, isn't that paid? A No answer.

Q Isn't that word paid? A Just the same.

Q The proper translation of it would be "Paid \$1.12" wouldn't it? A Deliver, that is not paid.

Q What do you mean by saying that the word paid is the same as deliver?

MR. McGUIRE: He didn't say that.

THE COURT: He said paid or delivered.

MR. MOORE: This seems to be a question of veracity. I said "paid" and he said it is just delivered.

(The Stenographer reads the last few answers of the witness.)

Q Now then is that word there one that could be translated into either paid or delivered? A Both.

Q Then the word do you find there "regular time", what is on that page, do you find any words there that would mean "Regular time"? A No sir.

Q Don't you find there "Ching Lee Company", the name of the man and regular time paid \$1.12? A No sir; I read

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that name "Fong Sie".

Q That is the name of an employee, "regular time \$1.12"

MR. McGUIRE: I object to that. Is counsel swearing himself now and making statement of fact or asking the witness about it.

THE COURT: Let us have none of this colloquy between attorneys.

Q Is it not? A It didn't say "employee" only Fong Sie, the name, I am a business man and if I make out a bill I don't make any time out that way---the first is my firm name.

Q This is a time bill, isn't it? A No sir, no such kind of time.

Q Now, I ask you to look at these characters right there in the centre? A Yes sir.

Q I ask you, after examining those characters, if those don't mean in English "regular time"? A That is "Fong Sie", that is the Chinese word.

Q You say it is not "regular time"? A No sir; not regular time; how could you make it regular time.

Q I don't know. I can't read it.

Q What is this character on the back? A Fong Sie.

Q Has that reference to time? A The name is Fong Sie.

Q Is that all? A Yes sir.

Q Doesn't that indicate the time when he came to work?

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A No sir.

Q Now isn't that phrase---doesn't that mean "He came on time"; A I never seen any come on time .

Q Look and see? A I can't point out "Came on time".

Q Isn't that what it means? A No sir.

Q You can't read Chinese very well, can you? A Well I can write it too.

Q Not very well, can you? A Well not very well?

Q You don't read the Chinese? A You know that is "Fing Sie" it means that.

Q Do you read the language well? A In the Chinese character---each character contains four or five or six meanings.

Q You don't know which one of the four five or six meanings it has, do you? A I call that the name of a person.

Q Do you know which of the four five or six meanings the Chinese character has. I understood you to say that the Chinese characters have four five or six meanings? A Yes sir.

Q Do you know which one of the four five or six meanings these Chinese characters have as applied to this paper? A There is two characters, some different words has one meaning, this is a name, it is not the time; it means the firm name first, and they put the persons name in the second line.

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Q If you characterize this paper as a bill, that is the reason you think it has another meaning? A If there is a character on the bill I call that a person's name.

Q If you saw it in some other place it might be "came on time"? A No sir, not that meaning at all "came on time".

Q Now the character, or one of them is Fong? A Yes sir.

Q That character I showed you on the back of the paper? A Yes sir; it has a different meaning in English; the same name as Nick Yackta person's name.

Q Do you know what "Fong" means in English? A It is a person's name.

Q Do you know what the correct translation of that expression "Fong" means? A It is a single word "happen".

Q What does it mean often? A Happen.

Q H-a-p-p-e-n? A Yes sir.

Q Would you say "Happened on time"? A Not not every individual would translate it that way in a bill; something like this to-day, if you just say "one day" a person's name it is the date, that is the thing.

BY MR. MCGUIRE:

Q Chinese names are made up of the names of places and things? A So many things.

Q Two words together might mean a person's name and at the same time would have their ordinary meaning in words in the Chinese language? A Yes sir; exactly.

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Q For instance if a man's name waxes "Won Lee" (happen late) and it was fastened to a dollar bill you would not take it to mean he came in late to the business? A (No answer).

Q Referring to this extract from the book that was put in evidence, I want you to take that, People's Exhibit 7, look at it and tell me first <sup>how</sup> ~~if~~ in writing Chinese characters you indicate the verbs and adjectives? A A single word is "heaven" in the first corner, heaven, and the second one is earth.

Q Read it to me? A Heaven, earth, sombre, yellow world, wide, immense, void day."

Q Have you read the first column? A Yes sir.

Q Will you give me a translation of the words in the first column there? A Yes sir.

Q Read them for me? A Heaven, earth, sombre, yellow, ---you want the next?

Q Is that the whole of the column? A Yes sir.

Q Read the words in the first column and then stop there will you? A Yes sir, the first column, the next line is "Day, moon, full, decline, cold, comes hot, gold, intertallery jays, year, cloud, evaporated, render, rain, gold, quite, beautiful, water, sword, call, great, gate fruit, valuable, plum how, sea, shore, river tasteless, dragon, manager arms, ruler.

Q Among those words in that book, People's Exhibit 7

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in evidence is there a single verb? A Yes sir.

Q Do you know what a verb is? A Yes sir.

Q Do you know English grammer? A Yes sir.

Q Do you know what a verb is? A This is a book,  
a translation by the verbs, but our translation is by each char  
acter.

Q In the translation of these characters which you have  
given me now is there a single verb? A Yes sir.

Q Do you understand me to say the word verb? A A  
word.

Q They are single words, are they not? A Yes sir.

Q There are no connecting words at all, are there? A  
No sir.

Q Are there? A No sir.

Q They are words of nouns, are they not?

MR. MOORE: I object to this, to your leading the  
wotness.

THE COURT: I will allow the question.

Q So that when counsel reads to you "The heavens are" r  
from People's Exhibit 3, "The heavens are of a sombre hue .  
The earth is yellow." You don't find that in this slip  
at all? A No sir.

Q Answer me? A No sir.

Q Do you find it in the slip? A No sir.

Q When it goes on "The whole universe at the beginning

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was one wide waste". You don't find that there, do you? A No sir.

Q And that is what you mean when you say this book is a translation of the meaning but was not the words? A Exactly.

Q Now are they not 80 words in Chinese characters there? A 80 words.

Q Where the word "is" is in that list, is the word "is" there? A Each character is each word.

Q Is the word "is" there? A Yes sir.

Q Where is it? A (No answer)

Q Do you know the word "is"? "It is snowing" for instance, do you find the word the word in Chinese in that list? A Each character is a word in the Chinese.

Q Do you understand me. If you don't say so. Don't run along and say a lot of things that I did not ask you about. I asked you if the word "is" the chinese equivalent of the word in that list of words that appears there on that paper? A Yes sir.

Q Where is it? A Here (INDICATING).

Q How can it be in the column? A This way is the column.

Q What do you understand me to be asking you. Tell me. What do you think I am asking you about? A You want to know all the meaning for each column.

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Q I didn't ask you anything of the kind. I asked you whether you can find on that paper the Chinese character that represents the verb "is". Can you or can you not?

A No sir.

Q It isn't there, is it? A No sir.

Q And isn't that the way Chinese is written and Chinese is read, the characters are given and they read the characters and put them together in that way, don't they? A Yes sir.

Q How many characters are in that series that is shown in green ink printed on that paper---how many are there? A 85 characters; but it is five that is not used to play; This five is mentioned by "copied from the original"; the meaning is copied from the original.

Q This is a copy of the original? A Yes sir; maybe you couldn't write, you wanted to play a ticket; you just marked a ten spot and give it to the proprietor and he gave you a copy, so therefore, he makes out five characters for a row and it is called a copy from the original.

Q Each one of these 80 characters are a representation of a Chinese word? A (No answer)

Q You used the word, as I heard you "ding"? A Yes sir.

Q In translating? A Yes sir.

Q How would you spell that word? A D-i-n-g that is pronounced "d-a-n-g".

Q You can't spell it can you? A That is what it means.

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Q Can you spell it? A "d-e-n-g", that is "Deng" any Chinaman knows that.

Q How do you translate it? A Ticket.

BY MR. MOORE:

Q .In reading Chinese writing you begin from the left hand side, instead of the right, do you not---you begin from the right hand side? A Yes sir.

Q What is that? A Yes sir.

Q And as you write you begin on the right hand side, do you not? A Yes sir.

Q Do you read from the top towards the bottom, do you not? A No sir; in the first column.

Q I am asking you when you read correctly? A Yes sir.

Q So to read this paper and read it properly you begin at the top in the right hand corner and read to the bottom, you not? A Yes sir, Chinese is written that way.

Q That is the way to read that paper correctly, isn't it? A Yes sir.

Q Then begin the second line and read from the top down to the bottom on that? A Yes sir.

Q And so on until you get over to the left hand side? A Yes sir.

Q Now reading that way you get different results than you get reading cross ways as Mr. McGuire asked you to? A Well, one ticket--make it crossways.

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MR. McGUIRE: You read the columns here.

THE WITNESS. Yes sir, columns, but that means before 12 o'clock.

Q Now, the counsel asked you if you could find any one of those characters where the word is appears in any one of them? A Yes sir.

Q As a matter of fact there is no Chinese Character for the word "is" is there? A Some of them.

Q Will you make the Chinese character for me that shows the word "is"; put it down there in Chinese? A What do you want.

Q I want you to make the character in Chinese for the word "is" make it the same way as it appears on here.

MR. McGUIRE: I object to that as unfair. He says it does not appear on there.

Q Make it in the same manner as it appears here if it does? A Give me a Chinese writing pencil.

Q Can you write "is" standing alone or write a sentence which contains it, or the single character "is"? If you can make it. A That is "is".

Q This is "is"? A The first one.

Q This first one? A "I".

Q I am not asking you for "I", I am asking you for the definite character "is"? A This is the Chinese character for "I", it means I, and this is "is" that is the Chinese.

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Now, what do you want.

Q I want the character as to the one word "is". Do you say that character is "is"? A This one.

Q What is the first one? A "I".

Marked Defendant's Exhibit C, for identification.

MR. MCGUIRE: I submit it ought to go in evidence.

MR. MOORE: It is marked for identification.

THE COURT: It is not offered as yet.

MR. MOORE: It is marked for identification at this time, but I would just as soon have it go in evidence. I don't offer it now but will on the defense when I get to it.

Q Now in writing Chinese, or in writing expressions in Chinese do you use a character for--- A What do you say.

Q In writing anything in Chinese do you use a special or individual character for the word "is"? A What do you mean a special word.

Q Don't you know what I mean. When writing in Chinese do you use a character for the word "is" alone? A Yes sir.

Q Now I ask you if you might not read this---if you would not read it correctly "The earth is sombre" reading that down the first line there "The earth is sombre"?

A Heaven, earth, sombre, yellow.

Q Heaven earth and sombre? Is that a correct reading of that?

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MR. McGUIRE: I object to that. These are words that the defense produces from an exhibit shown the witness and he says it contains certain Chinese words. The 80 characters on that sheet represent 80 Chinese words. We are losing time on this.

MR. MOORE: We are losing more time by your interruption. I mean that that is not a correct translation of that first line, is it?

A Only of the words.

Q Is that a correct reading of that line, or isn't it?

MR. McGUIRE: I object to that "A correct reading of the line" as improper.

THE WITNESS: They only got two words.

THE COURT: Don't get mixed up in this.

Q Is it a correct translation?

Objected to; objection overruled; exception.

Q Is it a correct translation? A State that again.

Q Is that a correct translation? A What?

Q "The heavens and earth are sombre"? A Those three words, the three characters I read---

Q Translate it without debating it? A These three is correct; four characters on there.

BY MR. McGUIRE:

Q Heaven and earth are sombre? A No sir.

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Q There are five words? A No sir.

Q Are there any more than three words on that sheet? A  
Four words.

Q Are there any more than three words on that sheet  
earth  
that relate to that matter? A Yes sir more, Heaven, sombre,  
yellow.

Q We didn't ask you about yellow. Will you listen to  
me? A Yes sir.

Q Will you give me your attention. A Yes sir; all  
right.

Q Do you find in that first column, as indicated here,  
that is the first column on the right hand side of that sheet  
marked People's Exhibit 7, do you find in the first column  
of four words any "and " or "are"? A No sir.

Q Will you translate the marks, the four characters  
defined in that first column? A Heaven, earth, sombre,  
yellow.

Q That is all you find, isn't it? A Yes sir.

H U I E K I N, a witness called on behalf of the people,  
being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McGUIRE:

Q Where do you live? 225 East 31st Street.

Q Mr Kin, you are a minister of the gospel in the  
City here, are you not? A Yes sir.

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Q With what denomination are you connected? A Presbyterian.

Q Where is your church? A 225 East 31st Street.

Q Are you familiar with the Chinese language? A Pretty good.

Q Were you born in China? A Yes sir.

Q How long do you think you remained there? A Well in China I was there about, I remained there about 15 years.

Q Did you learn to read and write Chinese? A Yes sir.

Q I show you a paper which has been marked People's Exhibit 7 in evidence and ask you to translate for me literally the matter the matter that appears at the top? A Word for word "growth" that means---

Q Translate it first?

Objected to. Objection overruled; exception.

A It's literal meaning. It is the name of--it is the name of some thing "Wo Kong Wit Chong".

Q Is that the name of something or the name of a person?

A Well "Wo Kong" is the name of such a company I think.

Q Would you translate that as the name of a company? A

"Wit Chong"--day shop; "Chong" means shop.

Q And the other word means day? A Yes sir.

Q So you would understand or translate that as being the name of the Company with a Chinese name and a day business.

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wouldn't you? A Well I don't think you could put in business "Chong" means shop.

Q Day shop? A Yes sir.

Q Now will you look at the matter that is printed there in green, and that is the matter that I ask you about, will you look at it carefully? A Yes sir.

Q How many Chinese characters are there in that matter?

MR. MOORE: I object to that, if the Court please, upon the ground that the paper is the best evidence.

MR. McGUIRE: Do you object to the question.

MR. MOORE: I do object.

Overruled; exception.

Q How many are there? A 80 characters.

Q 80 characters? A Yes sir.

Q Do the characters standing there form a completed sentence?

MR. MOORE: I object to that if the court please?

Objection overruled; exception.

MR. MOORE: I object to it upon the ground that it calls for the conclusion of the witness and not a statement of fact either as to the translation or as to the paper itself.

Objection overruled; exception.

A It is character by character--.

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Q It is character by character, is it not? A Yes sir.

Q How many characters are there in Chinese Mr. Kin.  
A You mean in the whole language; I don't think anybody knows.

Q A hundred thousand or more, are there not? You haven't got the letters of the alphabet in Chinese have you?  
A Well we have the roots; all the characters are composed by different roots with dots and crosses.

Q And the words are designated by a character, are they? A Yes sir.

Q Do the characters on that paper designate words in Chinese? A Well, every character here represents a word, or represents something.

Q Now will you read to us the words in Chinese, what the character on that paper stand for including the red matter which you have just stated. A We read from the right to the left and from the top to the bottom. We read this "Hend, Yong, Nick"

Q We want it translated into English, each character? A Well I can't give you a literal translation, it is Heaven and earth", I don't know exact the third one and the four one is yellow, universe, all the creation" and I can't give you exactly the whole meaning altogether "Fong, Sun and moon, I can't give you a very good translation.

Q But it means something in Chinese? A Yes sir.

Q You find the word stars there? A Yes sir.

Q Go on from there? A Stars, and then winter, summer and then about the fall and winter, about the ages and years.

Q Well, Mr. Kin, having look at the paper, carefully, are you able to satate whether or not it is a series of names of Chinese things? A This is taken from a Chinese reader; We have a Chinese reader among all our children committed when they start in to school.

Q This is a part of the Chinese primer, isn't it? A Yes sir.

Q It consists of the words--of 80 of the words in the Chinese language, doesn't it? A Not only 80 words but it is taken from that primer.

Q Now, do you know the game of Bachabue? A I don't know what Bachabue means.

Q Did you ever hear of any game in Chinese that was called Bachabue? A I don't know anything about Bachabue; I know a word in my own language Bachabue.

Q You know it under a name in your own language? A Yes sir.

Q What is it known by in your language? A Why Bue means a city; the literal meaning is "white dove ticket".

Q Well isn't it called that, don't you know the name a pigeon policy? A Well you can use that I suppose.

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Q How is this game of Bachabue played? A I haven't played any, I don't know.

Q You have never played the game? A No sir.

Q Now I show you the papers that were marked People's Exhibit 1 in this case. Will you translate those from Chinese into English? A Chow Lee Chong, that means shop. "Ching means shop"; Fong Sie means the appointed time.

Q May not that be some name too? May that not be the name of a man? A That I don't know; it might be the name of certain parties.

Q Did you ever know anybody by the name of Fong Sie? A No sie.

Q Did you ever hear of the name in Chinese--of a Chinese person "Fong Sie"? A I never heard such a name; of course there are some Chinese by the name of Fong.

Q What does "Sie" mean? A That means time.

Q Time? A Yes sir.

Q Go on? A 56,5,56 pay \$1.12, or deliver \$1.12, anyway you want to use it.

Q What is on the back of it? A Fong Sie and the other is---I don't know what that means "Fong Sie" just the same as on this side.

Q How do you translate Fong Sie? A You can use it as a name, the literal meaning is the appointed time.

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Q Do you know that in Chinese some names are the names of Chinamen and they often have another meaning in Chinese, haven't they? A Yes sir.

Q You know that is so in English, don't you? A Yes sir.

Q "Theodore" for instances, means "God given", yet you would have no doubt of Theodore being a man's name, would you?

A No sir.

Q If you find a name like that on paper you conclude it is a Chinese name, a given name? A No sir; I don't think this is such a Chinese name.

Q Why don't you think so? A Well for this reason that I don't know; I can't explain that.

Q If you were told that these two slips were fastened to these two dollar bills and were found in a shop in Pell Street with a man sitting at a table with lots of papers around him, would you then conclude that was a name and not a title or motto? A Of course I would conclude that it comes from this place; but I couldn't tell what that was.

Q You could not translate it as a name? A No sir.

Q But you would not say it would not be a name? A No sir.

Q I show you a book which was marked "X" one of the exhibits in the case and I show you the first page, and I ask you to read a translation of the first page from Chinese into

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English? A Well, the first character here means, it must mean the same day, the same month, this month, but of course the characters look more like a---

Q Can you translate from this, from that page? A Yes sir.

Q Will you do it? A Yes sir. The first is cash, interest, \$142.

Q Is there any date there? A That is what I am trying to explain to you before.

Q Don't explain to me, translate what you find on that page? A Well, it is month, second month, first day, ~~xxxx~~ cash, interest \$142.; cash interest \$50.68, 67 cents; cash delivered \$41. cash interest \$56.30, 63, \$56.30; then the third day cash, interest \$104.

Q Is there anything said about day or night time in the matter you have just read? A It is said the third day.

Q The third day? A Yes sir; first is day and then night.

Q Will you please translate the matter that appears on that page, if you can? A Well, the first day---I will repeat that over again. First day \$142.; night \$56.80, second day \$41.; night \$56.30; third day \$104.; night \$18.06 that is the first page.

Q Will you look at the matter in black ink that surrounds that matter printed in green ink on that paper that

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I have just handed you, which is part of People's Exhibit 3, for the people in this case, and translate it from Chinese into English? A "Yong Hing", I suppose it means a person's name; Hand, that means hand most likely; four characters, heaven, earth, together, ticket, that is what is the literal meaning, \$1.08 ticket.

Q Are the four characters set out there that you have mentioned similar to four of the characters that are in the green matter? A Yes sir; everything is right there; these two characters are on these green ones.

Q Did you notice on the green ink square there that certain characters are marked out with black ink? A Yes sir.

Q Now will you read me what does that mean, pointing to the first character "Chong"? A Chong.

Q What is that? A That is shop.

Q What is the next word? A "Chu Chong" shop; that means to be the name of the company; Chong and night time.

Q Will you answer the question, yes or no. If you can translate it do so, if you cannot don't? A What do you want now sir.

Q Where do you begin? A Begin from the right to the left.

Q What does that character mean? A Due.

Q How do you spell it? A D-u-e L-e-e y-e-a-r 8-h-o-n-g

Q What does it mean? A That means daily night shop.

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Q. Daily night business, or night shop? A Night drawing or night shop; it literally means night shop.

Q. Now what does the matter in the column mean? A This means a man's name, Sie, and this is hand, tend, two, together, ticket and this one is 100, there is a line along here, hand, 8, it means so many, 108 pieces or tickets.

Q. If you were asked to give the English meaning of the Chinese characters in that column how would you give it? A I would say from the "Yong Hen 12 characters, 108 pieces or tickets.

Q. You would say that the translation of that was that men named there had played twelve characters? A Whatever that man had written there he knows himself and the outsider I don't think would know or understand.

Q. I ask you what it means?

Objected to.

Q. What does it mean to you? A I say it is from that man 12 characters.

MR. MOORE: I object to the question upon the ground that it is improper and calls for the conclusion of the witness. He has already given us the translation into English. Now to ask him what that means is certainly asking him to give his conclusion of what he has already given in evidence.

Objection overruled; exception.

Q. Go on, read that in English. A I would say from

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the "Youngs hand 12 characters". I can't understand what that means; only that person who wrote that knows himself.

Q Doesn't it mean anything in Chinese? A I couldn't make out what it means, 108.

Q What is the meaning of the Chinese characters? A The meaning of that Chinese character is "Heaven, earth, together ticket, 108 pieces or 108 tickets; that is the best of my ability to explain to you.

Q Now I ask you to look at the book that was marked Y. How do you translate that first page? A The first page is "second month, 25th, night, Ching Kee, 130; San Toy 252; Chum How 336; Mon Long 56; Sennick 112; Gin Long, I think it is 13; then Hung How, 56; Gee Ho 84; Sam Ho 113; Hung How 108; Ju Ko 13; Fon Low 56. These are individual names, certain names of the people must be put down so much.

CROSS EXAMINATION BY MR. MOORE:

Q I show you again People's Exhibit 1 and ask you where you say that word means, "correct time," did you say? A Appointed time.

Q Now listen, might that ~~he~~ also mean on time, or regular time? A Well, it could say "On time" because it is right on that spot.

Q The other words there you translate as "paid", \$1.12?

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A Yes sir; you could say pay or deliver.

Q Well is it pay, the present tense, or the past tense paid? A I think that is right "deliver or Paid"; the Chinese never would write down this word unless "paid" it, they would put that character down.

Q Now I ask you if that is not what is known as a time sheet? A Well, I cannot express it myself.

Q You have seen these men at times that worked there by the hour at night, and they have time sheets for the time they worked? A That I cannot swear to.

Q That is the object of both of these papers, is it not? A Both about the same.

Q Now, do I understand you to say that you could not translate this paper that was shown you literally; that you could not give its entire translation? A Yes sir.

Q But you did say it was part of the Chinese School book, did you not? A Yes sir; I learned that.

Q I ask you now if that is not a part of this book that I now show you, and the page that I show you? A Well, I saw that in China when I was a little boy.

Q The translation of this particular book you have seen before, haven't you? A Yes sir; I saw it once before.

Q Now I ask you if those first numbered lines there, the twenty that are numbered, if in your judgment that is not a correct translation of the paper which was shown you by

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the District Attorney.

MR. MCGUIRE: I object to that question.

A Well, it is not a literal translation; it is a liberal translation.

Q It is a liberal translation? A Yes sir.

W I L L I A M C. H A M I L T O N a witness for the  
people, being duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. MCGUIRE:

Q Your address? A 401 West 30th Street.

Q What is your business? A I am superintendent of  
the Anti-policy Society.

Q How long have you held that place? A About four  
and a half years.

Q Has your work been done in that office in the City  
and County of New York? A Yes sir; principally, in greater  
New York.

Qc Are you familiar with the game of lottery policy? A  
I am.

Q Yours is a society instituted for the purpose  
of suppressing the game of lottery policy and punishing  
violators of it, is it not? A Yes sir.

Q Did you ever play the game? A Yes sir, I have.

Q Are you familiar with the materials, the papers and

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writings which you are used in the playing of the game? A I am.

Q How long have you been so familiar? A Well, for the last ten years.

Q Now, tell us how the game of lottery policy is played? A Well, the American Game of lottery policy is played with the numbers from 1 to 78 inclusive. There are two drawings played, a morning and an afternoon drawing. Two slips which are issued as the result of the two alleged drawings, two slips issued twice daily as the result of the two alleged drawings which purport to contain the winning numbers, and it is played with a combination of one or more numbers and pays a dollar for a cent.

Q For a cent? A Yes sir a cent in the morning and 87 cents of a cent in the afternoon. The most common way to play it is three numbers which is known as a gig.

Q If a man desired to play the game what would he do? A He would state to the Policy writer the number or numbers that he wished to play, and the play would be recorded on a manifold sheet, and then he would compare those numbers with the result of the alleged drawings which determined whether or not he had made a winning.

Q How many numbers are drawn at a drawing in the playing of the game? A Number from one to 78 inclusive are---there are twenty four winning numbers in the morning

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and twenty six in the afternoon.

Q What is done regarding the preparation of the record of the player's list or venture? A Well that is recorded by the policy writer on a manifold sheet.

Q Does he keep one copy and give the other copy to the player? A Yes sir; the copy that goes to the player is made by the aid of the manifold sheet, made at the same time that the writer's copy is made.

Q Is there any record made of the Player's name?

A No sir.

Q Identification? A No sir.

Q When is the stake paid? A The morning winner winnings are paid in the afternoon and the evening winnings are paid in the evening of the same day the play is made.

Q When is the money paid to the keeper of the game.

A When is the money paid?

Q When is the money paid by the player to the keeper of the game? A At the time he makes his play or debt.

Q How are the winning numbers drawn? A They are supposed to be drawn from a wheel; I have never seen it drawn. My information on that point is only hearway.

MR. MOORE: Objected to.

THE COURT: Objection sustained.

Q How are the winning numbers announced? A They are stamped with a rubber stamp upon a sheet of paper which

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is issued to the players, commonly called a policy slip.

Q Where are those winning numbers posted? A In the various policy shops and later in the possession of the policy writers, they are distributed to the players.

Q Where are the winnings if there are any paid?

A They are paid to the player by the man who took his play.

Q Where? A Usually at the place the play is made.

Q How many numbers may be chosen for a bet or money risk out of the series of 78? A One or more.

Q Anywhere from one up to 78? A Well, they very seldom play more than ten numbers; three numbers make one gig and four numbers make five; and six numbers make 26 and so forth; 10 numbers would make 120 gigs.

Q How many numbers are drawn as winning numbers? A 24 in the morning and 26 in the afternoon.

CROSS EXAMINATION BY MR. MOORE:

Q In playing this game of policy you say the numbers are from 1 to 78? A Inclusive.

Q The game is played entirely with a combination of figures, is it not? A No sir; may be played--

Q But I say the game is played, the general way it is played is with a combination of figures, isn't it? A Yes sir.

Q You may draw as many of those numbers or select as

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many as you see fit? A. You may.

Q. And the number that is drawn out depends upon whether it is afternoon or forenoon drawing? A. Exactly.

MR. McGUIRE: The People rest.

The Court then admonished the jury calling their attention to section 415 of the Code of Criminal Procedure and adjourned the further trial of the case until tomorrow May 25, 1911 at 10:30 o'clock.

New York May 25th, 1911.

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## THE COURT'S CHARGE

O'Sullivan, J.

Gentlemen of the jury the defendant at the bar, Leon Jung, is charged in the indictment in the case at bar with the crime of knowingly having in his possession writings, papers, and documents representing and being records of chances, shares, and interest in what is commonly called policy.

The indictment goes on, in its own language, to charge how that alleged crime was committed, stating that on the 13th day of February 1910, in this City, in the County of New York, Leon Jung, the defendant, feloniously and knowingly did have in his possession certain writings, papers, and documents which said writings, papers and documents are charged in the indictment as being records of chances, shares and interest in what is commonly called policy, <sup>or</sup> the numbers sold in what is commonly called policy.

The indictment charges that these papers, and writings of the kind called lottery policies, and certain policy slips were memoranda and records of numbers drawn or purported to have been drawn in what is called commonly policy; and that the said books, writings and slips purported to be records of drawings theretofore had or purported to have been had therein. The de-

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scription of the books and papers and other matters said to have been found in the possession of the defendant are further described in the indictment as certain manifold books and sheets containing numbers being or purporting to be records of the sale of what is commonly known as lottery policies, or of chances, shares and interest in the game commonly called policy.

You have heard, during the course of this trial, a description of the game, commonly called policy, and, generally, you have heard it to be, as the Court recalls it, a game in which the player applied to the manager of the game or any person, for a number or numbers, one or a combination of them, running from one to seventy-eight inclusive. As the court recalls it the player buys from the keeper of the game or the manager of it, or his agent certain numbers, and in the event that those certain numbers come out on the slip which is drawn, or any one of them, a certain amount of money according to the bet or wager goes from the manager or proprietor of the game to the player of the game. When, according to the evidence, application is made for a play manifold slips are used, that is to say, one paper is given to the player with the numbers which he desires to select or upon which he desires to bet; the decision of the bet being by a drawing, the manager or proprietor of

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The game, or his agent, keeping one slip, and the player keeping the other slip. That has been described to you generally but will not be considered in detail by the court as you are to remember the testimony for yourselves. Now that has been described as the game commonly called policy. The details of the game you will recall from the testimony. The substance of it is all that the Court desires to discuss at present with you and the law relating to that game. The success or failure of the player depends upon his delection of a number, that is to say, whether the number selected by him shall come out in the drawing or not.

It is charged against the defendant that he possessed papers and documents belonging to the game commonly called policy, and the charge is sought to be sustained by the District Attorney, by showing that there were papers and money found at a certain place in this City upon a certain day by the officers who have testified. It may have been shown that when the officers entered this place the defendant took possession, manual possession of these papers, and the officers, according to their testimony, seized those papers, documents and money and in return gave to the defendant a receipt.

What is the character of the papers? What is the character of the various documents here in evidence as

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exhibits before you. You are to examine them and find whether or not the papers, documents and other things in evidence before you substantiate the charge that these various documents and objects said to have been in the possession of the defendant were really the possession of papers, documents and so forth representing chances, shares and interest in what is commonly called policy.

If you find from the evidence in this case to your satisfaction, beyond a reasonable doubt, that there was such a possession of documents as charged in the indictment it would be your duty to convict the defendant as charged in the indictment.

There is testimony in this case to the effect that the chance or selection by the players in policy is the selection of a figure which the player bets and wagers will come out in the drawing. I will charge you, gentlemen, that if you find from the testimony to your satisfaction; beyond a reasonable doubt, that the defendant had knowingly in his possession papers of the nature already described, and that any of these papers is proved to your satisfaction to contain characters which to your satisfaction beyond a reasonable doubt were used by players in a bambling game as a selection

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upon which to bet, you will find him guilty of the charge in the indictment.

You have heard both games described to you. You have heard the game, or the alleged game, named in the indictment here concerning which the testimony has been produced by the prosecution--you have heard it described as one containing eighty characters letters or words from which the better or the player of the game could make his selection. You have heard the game of policy described as containing seventy eight figures as the basis of selection for the bets which the player desires to make. That is the detail of the game. The material part of the game being that the player bets or may select a figure or a number or a character and if the character does not come out, or if the word does not come out in the game with regard to which the defendant was said to have possessed documents when the player loses in that game: If the word or character comes out in the game with which the indictment connects the defendant, the player wins. In policy if the figure comes out the player wins; if it does not the player loses.

Indescribing the figures which stand for numbers in our language we have the figure of the Roman character we have the figure of the Arabic character, and in this

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alleged policy game, which you are now considering. I believe the figures are of the Chinese character. The law says "numbers" when referring to the game commonly known as policy. I charge you, gentlemen, that if you find that there was a game of chance, a bet, or wager carried only a method similar to the game of policy but dissimilar in that the result of the game, the losing or the winning, depends upon the drawing of a certain character which had therefore been bought and bet upon by a player, you may find that the possession of documents and papers relative to the game was the possession of documents and papers in the game commonly known as policy.

In every criminal action the defendant is presumed to be innocent until the contrary is proved, and the contrary, namely guilt, must be proved to your satisfaction beyond a reasonable doubt; otherwise the defendant is entitled to an acquittal.

You gentlemen are to look into this case as I know you will, absolutely divested of any prejudice toward the defendant in this case or towards his people. You are not on account of certain suggestions that we cannot reach the Chinese by our law as it exists to endeavor to apply the law to this defendant simply for that

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purpose, because they are as much entitled to the protection of our law as any people living under it. Your function is to declare what the fact is in this case and you have nothing else to do. It is the function of the Court to direct you according to the law but if you have any opinion of the Court's attitude toward the facts it would be your duty to disregard that absolutely

With regard to the motions made by the attorney for the defendant I want to say to you that they play no part whatever in the decision of the facts of this case. It has been considered by Mr. Moore to be his duty to make certain motions with regard to the law of the case and the Court has denied some of them, but whether they were granted or denied, gentlemen, is no concern of yours. You are simply to deal with the facts in the case and if you find facts which satisfy your judgment beyond a reasonable doubt of the guilt of the defendant you are to call him guilty as charged in the indictment; otherwise you are to acquit him.

MR. MOORE: I desire to except to that portion of your Honor's charge where your Honor stated in substance, that if the jury find that the papers had by the defendant contained characters which were bet or used for the purpose of playing a game of chance or to permit another

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to bet on his selection of the characters then he is guilty.

I also desire to except to that portion of your Honor's charge where your Honor states that if the game of chance is similar in all other respects to the game called policy except it is different as to those characters they might find the defendant guilty.

In that same connection I ask your Honor to charge this: That is not enough if the jury become satisfied that the papers introduced in evidence were or might be used for the purpose of gambling, but they must find they were used for the purpose of gambling in the game commonly known as policy.

THE COURT: Yes, I do charge.

(The jury retire)

(The Jury return a verdict of guilty as indicted)

MR. MOORE: I move to set aside the verdict on the ground that it is contrary to law, contrary to the evidence and upon the exceptions taken to the rulings of your Honor, and upon the further ground that the evidence is insufficient to justify the jury in finding a verdict of guilty.

Motion denied; exception.

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