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COURT OF GENERAL SESSIONS OF THE PEACE
CITY AND COUNTY OF NEW YORK, PART 111.

#1736

THE PEOPLE OF THE STATE OF NEW YORK :

against

ALBERT J. MAIR.

New York, July 10, 1912.

Indicted for assault in the first and second degrees.

Indictment filed May 23, 1912.

A P P E A R A N C E S.

For the People ASST. DIST. ATTY. EDWARDS.

For the Defendant R. J. MAIR, ESQ.

The defendant is arraigned for sentence before
HON. THOMAS C. O'SULLIVAN, J.

James H. [Name],
Official stenographer.

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OFFICER CHARLES R. RINKER, 26th precinct,
called as a witness, testified as follows:

BY THE COURT:

Q Officer, do you know anything at all about this boy's
previous record? A He has no record here.

Q None at all? A None at all in New York, no, sir.

Q Well now, what do you mean by that, that he has a record
some other place? A No, sir, but I went to Headquarters and
he has no record there.

Q Has no record at all? A No, sir.

Q Now, do you know the character of the young men with
whom he associated at the time of this offence? A No, sir.
He had only been in the city about a month.

Q Do you know anything at all about the circumstances of
this case which led up to the arrest? A No, sir.

Q Except that he fired a revolver? A Except that he
fired a revolver.

Q Do you know whether there was another revolver fired
immediately before that; did you hear more than one? A
heard three shots, I saw two.

Q From the revolver? A Yes.

Q Well, did you hear one before he fired? A No, sir.

BY MR. EDWARDS:

Q You heard one fired before you saw the two fired?

A Before I saw the two fired.

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did not see a soul except Edwards on the south side of the street and men on the north side.

Q What did he do when he saw you? A He was just starting to walk towards me and I hollered to "stand with your hands down or I will shoot." I had my revolver. He went over a railing into an areaway.

Q Let me see the gun, Officer, please. Is it a 44? A 41.

BY THE COURT:

Q How many exploded cartridges were there in it? A Three. The fourth had been pulled on but it did not go off.

Q How many were in the gun altogether? A Six.

Q What did the defendant say when you asked him why he shot this man? A He says "I got a beating two nights ago.

BY THE COURT:

Q Well, what did the complaining witness say, the person that was shot? A He said that he didn't know this man, had never saw this man before until he saw him at the time of the shooting.

BY MR. EDWARDS:

Q Well, is the complaining witness here this morning?

A I have not seen him.

BY THE COURT:

Q Did he go to a hospital? A Yes, he was in the hospital I think eight or nine days.

THE COURT: See if he is outside.

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MR. EDWARDS: Officer, will you please call the complaining witness in the Albert J. Main case outside, William Edwards?

(No answer.)

MR. EDWARDS: The complaining witness tells this story in substance, that he was walking along the street and never saw this boy before in his life, and the boy blazed away at him, and that of course does not conform at all with the story on the other side, and I have not been able to find anything to confirm their story.

THE COURT: No I think it is a case that will demand a little investigation.

Q. Officer, I wish you would make what investigation you can of it.

MR. EDWARDS: Judge, why not let the defendant come up here and tell his story, and the officer could have a copy of that with the names and addresses.

THE COURT: Yes, bring the defendant up there.

The defendant A L B E R T J. M A I N, called and duly sworn, testified as follows:

BY MR. EDWARDS:

Q. What is your full name? A. Albert Jacob Main.

Q. How old are you? A. Nineteen.

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Q Where is your home? A Massachusetts. I have lived in Davenport, Iowa, for the last three years.

Q On the 3rd of May, 1912, a little after midnight, where were you? A I was coming from the American Music Hall, to the corner of 43rd street, I turned up towards Broadway.

Q You had been to the American Music Hall that evening?
A Yes.

Q Alone or with others? A Alone.

Q Go on, tell us what happened? A I was walking up 43rd street and I was possibly a hundred feet or so from the corner of 43rd street and Eighth avenue, on the left hand side of the street going towards Broadway.

Q On the north or south side? A I couldn't tell you, it was the left hand side going towards Broadway. I was walking there and I saw some fellows with whom I had previous trouble.

Q Did you know their names? A Yes, sir, I know two of them. I don't know the rest of them.

Q Who were the two whose names you do know? A This fellow's name is Joe Rox.

Q How do you spell it? A R-o-x, I believe, and the other fellow's name is Ross, his last name, and his nickname is Chink.

Q Chink Ross? A Yes.

Q And you knew them before? A Yes.

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Q And there was a third man with them? A There was more, there was possibly seven or eight together. They were walking down towards Eighth avenue. As I got near them I started to cross the street and this complainant, it seems as though he was standing on the right hand side.

Q That is the man you call Chink Ross? A No, sir, I found out afterwards that he is a one time prize fighter through the Chinatown district, and the night they took me to the hospital the detective there recognized him as being one of the frequenters of the Chinatown district.

Q Do you know what the name is? A I know the name he gave.

Q William Edwards? A That's the name he gave.

MR. EDWARDS: That is not the old time prize fighter, is it, Billy Edwards?

OFFICER RINKER (Answering) I don't know.

Q How old is he? A Possibly twenty-eight. A majority of them were all either Jews or Italian fellows, and I found out he worked all this winter in the gambling house in Charleston South Carolina, and at the present time he is working on the automobile that runs from Long Acre Square to Coney Island.

Q This complaining witness? A Yes, sir, and he also has a girl with him who is a prostitute, and he has been with her some time, and the reason I found out that by a fellow sending word to me that he met the complaining witness in Charleston,

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and at the time he met him there he was out a position there and didn't know what to do and this girl he was living with had left him there and gone with another fellow.

Q Now, come back to what happened on 43rd street? A Just as I was walking up the street I noticed these fellows, and I had previous trouble with them, so I prepared myself, because they had threatened my life, as I said.

BY THE COURT:

Q When did they threaten your life? A Possibly three or four nights previous to that time.

Q Well, tell us how that happened?

A Well, the first place, this fellow who I don't believe is one of that gang is a Jewish fellow, I heard that he was here in the Tombs two weeks ago and he is out on \$2000 bail.

BY MR. EDWARDS:

Q What is his name? A Louis Cohen, he is out for picking pockets, and that fellow -- how the thing came up, I went into this pool room, I was going in to Hammerstein's Theatre, I used to go every week to see the show.

Q When was this? A This was the night possibly the 24th of April, I went into the pool room intending to go to the theatre, and as I went in I met a fellow by the name of Danny Flack, I met him in there and he suggested a game of pool, and it was possibly a quarter after seven.

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Q Where is that pool room? A Corner of 43rd street and Seventh avenue, by the Times Building, and I said "All right, I would play him a couple of games," and as I played quite often before going to the theatre to pass away the time. We were playing, it was raining on the outside and this fellow come in. I had been in the pool room possibly ten times previously and I had seen him in there.

Q Who was this fellow you are speaking of? A Cohen, the fellow that is out on bail now, he come in there and Flack and I were playing pool, and Flack suggested that we should go over and play a game of pitch or poker.

BY THE COURT:

Q Where? A 51st street.

Q What is it, a gambling house? A No, it is a private rooming house where Flack roomed at the time. We went up there and it was raining on the outside and we took a car up. We played possibly until ten o'clock and then I was losing somewhere in the vicinity of seven dollars and then Cohen was losing possibly twenty-three dollars, so we quit, and I come out intending to go home but I walked down to get the elevated at 50th street to go home.

BY THE COURT:

Q What avenue? A 50th and Sixth avenue. I come down on Ninth avenue line and get off at 42nd to go to the theatre -- no, that was the night of the shooting -- I was going over to

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get a 50th street and Sixth avenue car home, and it was raining. So I come out and walked down the street with this Cohen as far as 50th street. I walked down to 50th street and nothing was said at the time at all in regard to playing or losing, and it was all right. I was satisfied and he appeared to be satisfied, and we left this Flack in his room. So I took a train that went home. Well, I didn't go down to the pool room for possibly a week and a half after that time, somewhere around that, and the night I did I was going to the theatre again and this night it was raining also, and I had on a rain coat. I come upstairs in the pool room, which is upstairs over a saloon. I went up the front stairs and I looked around the pool room and I noticed nobody there, and I saw this Cohen in the back with this Rox and Ross, and one other fellow that I don't know, and they were sitting in the back. I just wandered down to this fellow, on account of playing cards with him, so I turned and started to go to the theatre, and as I got down the front stairs the four of them came running down, and just outside the door, this Ross came and he grabbed me by each arm, and this other fellow Rox kind of felt my pockets to see if I had a weapon, as he probably expected, in my pocket, but I hadn't. I had possibly a dollar in change. They looked through me and they said, "Where do you get off to be cheating people playing cards?" Rox said this.

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BY THE COURT:

Q. "Where do you get off" for what? A. "To be cheating people," and the minute he said that I knew the cause of the trouble was that he thought possibly that when Flack and I were playing pool together that he might have thought Flack and I were extra good players, and that the scheme was to get him playing cards, which was positively not the truth. When they come down this Ross seized my arms and Rox felt my pockets to see if I had anything. I didn't have anything. He had my arms in this shape and wrists (illustrating), and he butted me with his head a couple of times on my jaw and this other Rox kicked me in the shins at the time and pushed me back in the cigar store and the minute they pushed me in the cigar store I went right back against the case and they held me there and they started to ask me for money. I told them I didn't have any money at the time, I only had about a dollar at the time, and this Louis stood in the background while they held me. He says "Well, I have lost \$23 and you better come down and kick it up," and I told them I didn't have it. They were punching me around there in pretty good shape. Finally I said all right, I was willing to do anything to get away from there.

BY THE COURT:

Q. Did you get \$23 out of him? A. No, sir, I lost seven myself. So then they went out of the cigar store. This fellow behind the counter said to another man in the store, "Why don't

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you get these fellows out of here?" So I stayed in the cigar store possibly an hour, and they were talking.

BY MR. EDWARDS:

Q What kind of cigar store is it? A I believe it is a United Cigar Store, it is right next to this pool room on the corner of 43rd street and Seventh avenue. It is the second door in. There is a saloon on the corner.

BY THE COURT:

Q On the south-west corner, is that, 43rd street and Seventh avenue? A Well, north and south distances I don't know at all.

OFFICER RINKER: That is the south-west corner.

BY THE COURT:

Q Dowling's? A (By Officer Rinker): Yes, sir.

THE WITNESS (Continuing): They went out of the cigar store and I waited in there for an hour, possibly an hour, but finally they went away. I came out, and then I started in there to take the train home and I went as far as Child's, and they were standing there at the corner, and they come over to me again and this Louis come up to me and made the remark, he said, "You better kick up that money or that will not be one-half of what you will get." So this Rox, he seems he has a reputation of killing one fellow and getting out of it, and this Ross killed another

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fellow with a pool cue and got out of that, and Rox said to me at the time, "Yes, and if you don't kick it up, I croaked one and I can croak another." So I got out of the vicinity right quick and I went home and I made up my mind at the time that they were the sort of fellows that would carry out what they said. I had no money to give them.

BY THE COURT:

Q Well, what did you go back for? A I did not go back.

Q What did you go back in that neighborhood for? Why didn't you stay out of it? A Your Honor, I did stay out of the neighborhood. I got a revolver and kept it in my pocket. That was the only time I come down town at all. I didn't go to Hammerstein's, I avoided going up around that corner at all. I come down on the Ninth Avenue Elevated and went to the theatre, I went to see the show and then come out and went in a restaurant.

BY MR. EDWARDS:

Q This was the 3rd of May? A Yes, sir, and I said to myself, "I might as well"--

BY THE COURT:

Q Where did you get this revolver? A The day after this.

Q Where did you live? A 463 Central Park West.

Q Now, did they know where you lived? A No, sir.

Q Why did you think it was necessary, living up there, to buy a revolver to protect yourself against blackguards downtown?

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A Well, your Honor, it may seem funny to you, but at the same time I was really frightened myself. I didn't know just what they would do, and I expected at any time I might be downtown and might run into them. So then, as I say, I went in a restaurant and come out and started to walk up 43rd street. I was going over to 50th street. I got to the corner of 42nd and Eighth avenue and I ran into them and I recognized them, and this fellow, I believe it was Rox, I couldn't say at the time whether it was or not, they had caps on, Rox started to cross the street and he was the foremost one and he pulled out a revolver and fired a shot at me.

Q There was a shot fired? A Yes, sir, and the officer at the time made the statement to the sergeant in the station house that there were four shots fired, and when he opened up the revolver, he asked the sergeant if he could not change the statement there, four shots to three shots, and the sergeant said "Yes."

Q His first statement was four shots? A Yes, sir.

BY MR. EDWARDS:

Q Well, there were four shots fired altogether? A Yes, sir, then that was shot at me and the officer knows there were four shots fired.

Q Well, this is the officer (indicating)? A This is the officer that made the statement to the sergeant to cross it out and write three shots fired. The officer asked me what was

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the matter at the time and I told him I had a little trouble with these fellows previous to that, and on the way to the station, he and another officer put me under arrest, this officer here made the remark to the other officer that they were professional gun men. I think the officer knows them. One of them made a remark, which one it was I don't know, either Joe or Rox said to the officer, "Just turn him loose for a couple of minutes."

Q That was after you were arrested? A Yes, they followed us to the station house, the officer made the remark, one of them said, "Just turn him loose for a couple of minutes," and the officer took me into the station, and then took me over to the hospital.

BY MR. EDWARDS:

Q Who was it who said to the officer there were some gun men following? A This officer said to the other officer.

Q Who was the other officer, do you know? A No, I don't.

BY THE COURT:

Q Officer, what was the other officer's name? A (By the officer); Padrucco.

BY MR. EDWARDS:

Q Of the 26th? A Yes, sir.

Q An Italian officer? A Yes. We were walking towards 47th street station on Eighth avenue and this officer had me by the right arm and Padrucco had me by the left arm and one

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officer made the remark to the other officer, they were five feet behind us, when they made the remark to turn him loose for a couple of minutes, this officer turned around and saw these men in back of us, and he said to the other officer, "There is a couple of professional gun men following us." They took me to the station house and the officer made the charge on the shooting affair to this sergeant. In his report, he asked how many shots were fired, and this officer said four, and he had the revolver in his hand and he opened up the revolver and he said something about there were only three shots empty, and he asked the sergeant if he couldn't change that statement. The sergeant or captain behind the desk said "Yes," and he wrote "three shots." That is all there was in the case with the exception of going over to the hospital, and then Edwards in the hospital, the detective there identified Edwards. He used the expression to him, Edwards said that he didn't know me, told him he never had seen me before, and the detective made the remark and said, "You are game all right," something of that kind. Then he turned and he said to Edwards, he got kind of mad because Edwards would not say anything, he asked Edwards if he had not been a fighter in Chinatown three years previous to that time, and Edwards said "Yes," the officer spoke to him in a kind of sarcastic way, as though he had a record of some kind.

Q What officer, this officer? A No, the detective that was there, asked him if he had not been around Chinatown.

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BY MR. EDWARDS:

Q What detective was on that case? A (By Officer Rinker):
Fitzpatrick.

Q Of the 26th? A Yes.

THE DEFENDANT (continuing): That was all there was to
it. I can assure your Honor that I am not the kind of fel-
low that will go and get a revolver and get into a thing of
that kind.

BY THE COURT:

Q Well, you are the kind of fellow who did it? A Well,
I am not the kind of fellow who would go and do it. I protected
myself, your Honor.

BY MR. EDWARDS:

Q Had you ever seen Edwards before that night? A No,
sir, never seen him before.

Q And he was with these other two? A Yes, there were
not other two, there were possibly six or seven of them that
ran towards Broadway.

Q Rox was one of them? A Yes.

Q Ross was another? A Yes.

Q You know the others? A No, I didn't know the others.

Q Was Louis Cohen there? A Well, that I couldn't tell,
I couldn't swear positively that he was there.

Q Well, after firing the first shot what did they do?

A They turned and ran towards Broadway and I stood still. Of-

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ficer Rinker here came up and laid hold of me and the other officer pursued them.

BY THE COURT:

Q After firing the first shot, you say they fired --

BY MR. EDWARDS:

Q (Interruptin) Now, what did they do immediately after firing the first shot, before you fired? A They started to cross the street and this Rox was in advance of the others, just as if to step off the curbstone. The reason I had, that I showed them I was armed and there would be nothing more to it, I thought, but instead of that they stepped down off the curbstone and one of them fired this shot, and as they did I took out the revolver and fired back, and I stood still and the officer came running up to me, and when he got possibly fifteen feet away they started to run back towards Broadway, and the other officer that had me by the left arm, he pursued them towards Broadway but he didn't get any of them.

BY THE COURT:

Q Did they follow on then towards the station? A They came back.

Q Did they at first as they ran away? A Yes.

Q And then the officer started with you to the station?

A Yes.

Q And then they followed back? A Yes. Officer Rinker held me there on the sidewalk and this other officer chased him.

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Then he came back and he brought Edwards there, and there I was, there was a whole crowd gathered there, and they all gathered and held me there possibly for three or four minutes. Then we started up Eighth avenue. I didn't know they were around there until one of them made this remark "Turn him loose," the officer turned around and then I turned around and I saw they were behind.

BY MR. EDWARDS:

Q Did you see this man Edwards with a gun at any time?

A No, sir.

Q Will you explain how you came to hit him instead of one of the others? A No, I can't explain to you. When I saw them I knew they were all out, as the expression they would use, to get me, I knew that.

Q What I want to ask, did you shoot at any particular man or did you just shoot at the crowd? A No, sir, I didn't shoot at any particular man. I just shot more or less to make them leave me alone.

Q They were all together there and you shot at the bunch?

A Yes, they were all together.

THE COURT: Well, that will do. Now, the officer.

OFFICER CHARLES R. RINKER, recalled.

BY THE COURT:

Q Who was in that crowd that followed on after the arrest?

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A There was about six or seven that followed a little ways up the avenue.

Q Did you know any of them? A No, sir.

Q What about a remark made about them being professional gun men? A There was no such remark made. While I was holding him in the crowd there, of course you know when a shot is fired how quick it will collect a crowd. A man from Broadway brought Edwards back, he ran towards Broadway and they caught him and brought him back. When he came back he identified this man as the man standing behind the tree, I had --

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Q Who identified him? A Edwards identified Main, and Main says to me "They are after me now", he says, "They are kicking me on the legs, get me out of here". I says "All right," and I turned over to Padrucco, and I says "Come on, go in with me, maybe the fellows might ~~follow~~^{follow}". When we got around the corner I told him what this man said, then a bunch of six or seven was walking behind, and had not passed any remark as I heard. I turned around and I says if they knew what was good for them they would go on about their own business and not follow us up. They turned around and dispersed in every direction. They didn't all go together, so they were not a party of friends. Now, that about that four shots ---

Q Do you know anything at all about Edwards, the man that was shot? A He used to work on one of the sightseeing automobiles last summer, running from Times Square. The rest of the men in the house knew him, several that works over that way. I never knew the man.

Q What about him? A They don't seem to know anything much about him, although they claim he is a pimp, they claim so.

Q He is? A Some of them say that.

Q Officer, would it be possible to run down a record of that man Edwards? A Well, I don't know.

Q Fitzpatrick is the detective? A Yes, sir, he is working now on the same sightseeing coaches, running from there.

Q You have not much of an opinion of him? Well, not

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very good, no, not personally.

Q Do you suppose he was with that gang that night?

A There was no gang there at all. I only saw him and this man, but Edwards claims there was another fellow walking with him.

Q With Edwards? A Yes, he says there was a man walking with him, that he was going to this fellow's house to get some ^{some} socks, he was buying some socks off him, ~~he~~ fancy socks, and when the first shot was fired the other fellow laid down, he said, on the sidewalk, but I didn't see him at all.

Q You did not find the other man? A No, sir, I did not see him.

BY MR. EDWARDS:

Q How about this question of the four shots? A Why, the four shots were this way; in the house the Lieutenant there understood me to say there were four shots fired, but there were three shots fired, and one he had pulled the trigger and didn't go off.

Q When did you first open the gun? A When I got to the station house.

Q At the time you spoke of four shots you had not had a chance to look at the gun? A I did not say there were four shots fired. I said three fired and four did not go off.

Q But you said that before you opened the gun? A Yes.

Q Well, how do you know ---

THE COURT: Do not go too deeply in that.

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BY THE COURT:

Q Officer, nobody is accusing you, but if you did say it once and there were four shots and you were mistaken about it, leave it so. There is nobody following you up. Just let us hear what statement was made in the case. A As I opened the gun I could see the four holes there.

Q Now, do not make that statement, just yet, because you made the statement before you broke the gun? A I said there were three shots fired before I opened the gun. Then when I opened the gun I says, "There is four here, there is four empty". That's the way I had it. Then when I dumped it, I saw there was only three and one that didn't go off.

BY MR. EDWARDS:

Q There are four that are marked? A I told him three shots before I opened the gun, and when I opened the gun I saw four and I says "There is four empty". Then after I pulled it out I says "No, there is ~~one~~ only three empty". I says "One failed to go off". That was the argument about the changing of the record.

BY MR. EDWARDS:

Q Then the record was changed? A I don't know whether he had it down four or three. I could not say.

BY THE COURT:

Q You see it makes this amount of difference, if somebody fired at him before he fired it might justify him in firing, but

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not in carrying the revolver. A Two of the shots took effect in this man and the third one went into a window in the center of the plate glass window.

Q Well, you did not hear any more than three shots? A No, sir, that's all I heard. There was the first shot fired and when I turned I saw and heard the other two.

BY MR. EDWARDS:

Q Did you hear anything said by any one of these men about turning him loose for a few minutes? A No, nobody said "Turn him loose".

BY THE COURT:

Q That is all, Officer. I want you to understand that instead of any blame being attached to you, you are to be commended for doing your duty, but it is the business of the Court to find out if there were four shots fired, it is the business of the Court to know and to investigate that as much as possible, because he says there were, and the fact that there was one unexploded cartridge may explain the erasure on the record, if the statement was made that there were four shots. A When I opened it I says "Four shots", then after when I turned them out, I says "No, only three empties", because the report had already been made that there were three shots fired.

MR. EDWARDS: Now, the defendant tells me this young man here was present on the night he was attacked in the saloon (indicating.)

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EDMUND GALLAGHER, of 138 West 137th street,
called and duly sworn as a witness, testified as follows:

BY THE COURT:

Q What is your occupation? A Clerk.

Q Where? A I am not employed at the present time.

Q Where were you employed? A I was employed at 217 East
9th street.

Q What doing? A Clerical work.

Q What work? A On books.

Q Well, what sort of company? A It is a cornice com-
pany, the American Cornice Company.

Q How long since you worked? A Seven months.

Q What have you done since then? A I have been a ticket
speculator.

Q On the curb? A On the curb.

Q For the theatres? A Yes, sir.

Q On 42nd street principally? A Yes, sir.

Q How did you come to meet this young man? A I was in-
carcerated in the Tombs at the same time he was.

Q For what? A I was charged with attempted extortion.

Q And discharged? A Yes, sir.

Q Are you the man that hired Col. Haire for this fellow?

A No, your Honor.

Q Who did hire him? A I haven't any idea.

Q Who advised him to get him? A I don't know who advised

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him.

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Q Well, what have you to say about this matter? You had known this young man previous to the affair about which you are going to testify? A No, sir.

Q You never saw him before? A No, sir, I know the complainant ---

BY MR. EDWARDS:

Q Now, tell us all you know about this? A At 43rd street in the pool room where the affair started, it is in my estimation a notorious place.

Q When did it start, this affair? A I am not accurate, but about three months ago, if I am not mistaken.

Q Well, it started before the night on which the shooting occurred? A Yes.

Q Well, what do you know about the night of the shooting? A I don't know anything about the night of the shooting.

Q Well, what did you see happen, if anything, in the pool room before the night of the shooting, about what month was it? A I didn't see anything happen in the pool room in regard to this case.

Q Well, what did you see happen? A The pool room, I had been in trouble myself in the pool room.

Q Well, but did you see anything happen between this complaining witness Edwards and Ross and Rox and this defendant Main at any time? A No, sir.

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Q You did not see or were not there the night he was beaten up? A No, sir.

Q You know nothing about that at all? A No, sir.

Q Do you know anything about Edwards, the complaining witness? A I am led to believe --

Q Well, what do you know about him, not what you heard?

A Just only what I heard from other people.

BY THE COURT:

Q Now, what was his reputation? A Not very good.

Q Well, what is it? A Why, he is inclined to be a guerrilla.

THE COURT: We will take a recess for ten minutes.

After Recess.

THE COURT: Are there any others to be heard in this matter?

MRS. A. E. MAIN, called as a witness and not sworn, testified as follows:

BY THE COURT:

Q You are the mother of this boy? A I am.

Q How old is he? A Nineteen years old.

Q Is he your only child? A Yes, sir.

Q His father is living? A Yes, sir.

Q What is your permanent residence? A Davenport, Iowa.

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Q At present I understand you are summering in New Hampshire? A Yes, sir.

Q And your husband is ill? A Yes, sir, nervous trouble.

Q I would like to know --

THE COURT: Proceed, Mr. Edwards.

BY MR. EDWARDS:

Q What is your husband's business? A Advertising booklets, specialties.

Q And you live now in Davenport, Iowa? A yes.

Q Have been for how long? A Three years.

Q How did your son happen to leave home? A He wanted to come to New York. He has been very anxious to come to New York for pretty near a year, and we came East in the spring to visit my sister-in-law in Massachusetts, and while we were here, he persuaded us to let him come to New York.

Q And he came to New York by himself? A Yes.

Q And of course what he did in New York you do not know?

A No, only that he wrote me. I have also written to Mr. Taylor about him.

Q Have you seen Mr. or Mrs. Taylor? A My husband has, I have not. They are both out of town.

Q Where are they, do you know? A At Cape May, New Jersey, I think.

Q And he worked for Mr. Taylor, you say? A For Mr. Taylor.

Q In what capacity? A Taking orders and delivering and that sort of thing.

Q In what line of business? A Piano repairing, tuning and selling.

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Q Do you know what he received, did he work on commission or on salary? A I think he worked on commission.

Q Alone? A Yes. I know he did not make very much money.

BY THE COURT:

Q Where did he live? A 463 Central Park West, with the Taylors, he boarded with them.

Q Had you known Mr. Taylor before your son went to work for him? A No, sir, but he had known a friend of my husband, and it was through him that Al met him.

BY MR. EDWARDS:

Q That is, Mr. Taylor was a friend of a mutual friend of his and your husband's? A Yes, sir.

Q And that is how he came to get employment with him?

A Yes, sir.

BY THE COURT:

Q What have you heard about your boy's method of living and his conduct here up to the time of this affair? A They speak very highly of him, up there. They wrote us very highly after this happened, they wrote us that they could not understand it, that he was not out nights. He didn't stay out nights, he stayed out as most boys do, going to the theatre, that's all, never stayed out all night. They came to think a great deal of the boy.

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BY MR. EDWARDS:

Q Now, what plans have you for his future? A If I could be trusted with the boy, I should take him right away down in New Hampshire until the 15th of September, and take him west again, as he has promised me he will go to school again.

Q What school? A I have not decided on that. He seems to have a great idea of going to college.

BY THE COURT:

Q Well, I do not like the idea of sending the boy away -- until you are ready to go to Iowa, I do not care to send the father of this boy away from the treatment for his health. I have not yet determined that I am going to suspend sentence on this boy. Mr. Edwards is perfectly right in asking you what your plans would be for him if we did suspend sentence, but we will have to know more about this before we can decide just what we are going to do. It seems to be rather a complex situation. His story is one, and the story of the officer so far contradicts it in some very material matters.

MR. EDWARDS: The complaining witness was served today, but has not appeared.

J O H N C U S H I N G, of 206 East 17th street, called and duly sworn, testified as follows:

BY THE COURT:

Q You are an uncle of the young man at the bar? A I am.

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A. That is to say, you are his mother's brother? A Yes, sir.

Q. And you are by occupation an organist? A Yes, sir, at Galvary Church.

Q. How long have you been here? A I have been here about ten years, or very nearly.

Q. Do you remember the time when your nephew came to the city here to live? A No, sir, I didn't know about it at the time at all. My sister and I, she has been living away with her family very much and I have been -- so he was here for some time before I knew it.

Q. How long since you learned he was here? A Just about four weeks ago.

Q. You did not hear until he got into this trouble?

A No, sir.

Q. So that you really know nothing at all about his circumstances here in the city? A Not a thing, sir.

Q. Well, do you know Mr. Taylor with whom he lived? A No.

BY MR. EDWARDS:

Q. How much have you seen of the boy in the last ten years?

A Not very much at all. You see he was brought up with his mother. As a rule I was working on my career very much, so that he hardly knows me, I suppose, at all. He was about six years or so when I saw him.

BY THE COURT:

Q. Well, there is not anything you can say about his living

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in town and what company he kept, &c.? A No, sir; you see he never came to see me.

Q That will be all.

Later: The defendant is again arraigned before the Court.

OFFICER ANTHONY J. PADRUCCO, 26th Precinct, called as a witness and not sworn, testified as follows:

BY THE COURT:

Q Tell me what you know about this case? A Your Honor, I really don't know anything about it in connection with the case at all. I didn't hear the shooting.

Q What is your name? A Anthony J. Padrucco. Any more than I assisted the officer in taking the defendant into the house as a prisoner.

BY MR. EDWARDS:

Q Whom did you see around when you, or where were you and what first attracted your attention to what was going on?

A I was on Broadway from 43rd to 44th street, one block, and some one said there was some shooting across at 8th avenue, and I went down in that direction.

Q What did you see when you got there? A There was a crowd of people, I don't know how many, a big crowd there, and I have seen Officer Rinker with this prisoner, he had hold of him and he said "This is the prisoner".

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Q Did you see any one else that you noticed particularly?

A I didn't notice any one in particular. I saw an awful crowd.

Q Where did you go? A I took hold of the prisoner with Officer Rinker, and assisted him to the station house.

Q As you went to the station house, did any crowd follow you? A Yes, there was a crowd followed, I don't know how many in number.

Q Did any one say anything on the way to the station house? A The defendant says to me "There is a gang of gun fighters following us." We looked around and we said "Who are they?" He didn't seem to identify any of them, and we made them disband.

Q Any one that you recognized in the crowd? A I didn't recognize any of them, I didn't know any of them around that neighborhood, never been on post in that neighborhood.

Q Did you hear anything said by any one who was following you on the way to the station house? A Not that I can remember, no.

Q Did you hear the remark made by one of the men following to the officer, saying "Turn him loose for a few minutes"?

A Not that I remember, no, sir.

Q Did you hear any shots yourself that night? A No, I did not.

Q Did you have any talk with the defendant other than what

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you have told us? A I did at the station house, I did talk with the defendant. I asked the defendant what was the reason for doing the shooting, and he stated that the night previous that he had got a trimming.

Q Did he say the night previous or a few nights previous?

A I don't recollect whether the night previous or a few nights previous, but it was some time before he had got a trimming, he didn't say who he got the trimming from.

BY THE COURT:

Q He got what? A A trimming, a licking.

BY MR. EDWARDS:

Q Did he say who had done it? A No.

Q Did he say why he shot on this particular night?

A No, not to me.

Q Did he tell you how many of these men there were he shot at? A No, sir.

Q Now, when you got him to the station house, did your connection with the case stop there? A Yes, sir.

Q You didn't see him again after that, A No, sir.

Q Were you at the desk when Rinker made his report?

A Yes, sir, I was standing.

Q What did Rinker say? A Rinker presented the gun and charged this man ~~xx~~ with shooting another man, and the other man had to be taken to the hospital.

Q Did you see Rinker break the gun? A Rinker broke the

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gun open.

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Q Did you hear him say to the Sergeant at the desk or the Lieutenant at the desk how many shots had been fired before he opened the gun? A I didn't hear him say anything before he opened the gun.

Q Didn't you hear him state how many shots had been fired at any time? A After the gun was broken open, he said there were three shots fired.

Q That is all he said? A That is all he said.

Q Are you sure of that? A Yes.

Q Now, I call your attention to the blotter, in which it appears that reference to Albert J. Main, arrested on 43rd street east of 8th avenue, where he fired, "four" scratched out in red ink and "three" written over it. Did you hear Rinker say he fired four shots? A I did not hear anything about four shots.

Q Can you explain how the Lieutenant at the desk made the entry "four shots" if Rinker didn't say it? A I don't know what communication Rinker and the Lieutenant had at the desk.

Q You see the entry, it is corrected "Four" scratched out and "Three" written over it? A Yes.

Q Didn't you hear Rinker say there were four shots fired? A I didn't hear Rinker say anything about any four.

BY THE COURT:

Q Well, he says himself that it was corrected afterwards?

A Well, I didn't hear him if he did. I was in conversation

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with some one else.

Q How near were you to him? A In front of the desk, about three feet away from the desk, at the rail there, I was in conversation with some one else.

Q Was there any other conversation going on at the time between you and any other officer? A No, there was just simply a conversation with the detective.

Q Was any statement made by this officer to the Lieutenant at the desk? A Yes.

BY MR. EDWARDS:

Q What were you doing, listening to him? A No.

Q What were you doing? A I was in conversation with one of the detectives, outside of this case altogether.

BY THE COURT:

Q Was there any other conversation? Well, tell me where you learned that the shots were fired about that locality?

A I was at --

Q No, where were they fired? A In the locality of 43d street about, I should judge, about fifty or sixty feet over from 8th avenue, east of 8th avenue.

Q And you were then doing duty on Broadway? A On Broadway between 44th and 43rd.

Q So there would be between you and the place where the shooting occurred first, 7th avenue? A 7th avenue and Broadway come to a conjunction there. A distance of about four

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hundred feet. I was between 43rd and 44th.

Q And the shooting took place where? A 43rd street near 8th avenue. 7th avenue and Broadway run together there.

Q And you were on what side? A I was on the west side of Broadway.

Q So you were really on the west side of 7th avenue?

A Yes, sir, right in front of Shanley's.

Q And all that is called Broadway there, but the shooting, if it took place about that time, did not take place a block away from you? A Well, it would be two avenue blocks.

Q I mean avenue blocks? A No, not a block away, but it was a distance of 400 feet. I was walking up and down.

Q Between 43rd and 44th streets? A Yes, sir.

Q And the shooting took place in 43rd street? A 43rd street.

Q What do you know about Edwards, the fellow that was shot? A Well, all I know is that I have seen him working around there.

Q A pretty well known character in that locality? A Yes, sir.

Q He is around there a good deal nights? A He is around there all hours, to my knowledge.

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Q What does he do? A He works on one of those sight-seeing automobiles.

BY MR. EDWARDS:

Q A rubber-neck automobile? A Yes, sir.

BY THE COURT:

Q But he is not always on that automobile? Tell me what reputation he has got? A Well, I really don't know his reputation to any extent at all. I have seen him.

Q Well, I didn't ask for any very extensive report, but I would just like to know what you know about him, what you hear about him. Is he a pimp? A That I wouldn't say.

Q Well, has he that repute? A I heard people say something of that remark, but that I couldn't swear to.

BY MR. EDWARDS:

Q Do you know anything about his experiences down in Chinatown, that he used to be a Chinatown hanger-on? A All I know he went up and down in this rubber-neck wagon, across in that direction.

BY THE COURT:

Q Well, a man may do that and be an honest man, but I want to know what you know about him? A Well, I really haven't got any good information at all.

BY MR. EDWARDS:

Q Have you any bad information, information of any kind? We want to know what the information is? A Only what people

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say.

Q Well, that is what we want to know? A That he is a pimp or something like that, that he hangs out with prostitutes, but that I couldn't swear to.

Q That is his reputation? A And I have heard he was a prizefighter.

MR. EDWARDS: Here is the complainant, your Honor.

ERNEST GUMPBEL, the complaining witness, called and duly sworn, testified as follows:

BY THE COURT:

Q What is your right name? A My name is Ernest Gumpel.

Q Why did you take Edwards? A I was boxing at one time for a living and I had to change my name.

Q What name did you take, Jimmie Edwards? A No, sir, William Edwards, Willie Edwards.

BY MR. EDWARDS:

Q Did you take that because of Billy Edwards, the old prize fighter, that used to be at the Hoffman House? A Yes, his partner Jim Daly gave me that name.

BY THE COURT:

Q How long were you in the ring? A About nine years.

Q And you have not left it yet, have you? A Yes, sir.

Q When? A I left it in 1903.

Q What have you been doing since? A I have been in the

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automobile business.

Q Well, there are many phases of that business; what is your particular automobile business? A I think I had the pleasure of taking you up to the ball game myself one time, and there other one of the chauffeurs, you came back to me and complained, you made a complaint against the chauffeur. You went up to the ball game one time and it seems he put one of his friends on the seat alongside you and sort of crushed you, and you came back to my side partner at the time and told him about it.

Q No, my trouble was that that fellow did not have a license and he was driving about twenty people in a big wagon?

A That's what it is.

Q Well, you also go about giving information to strangers who ride on these wagons? A Sometimes, yes, sir.

Q And you take sight-seers into Chinatown? A Yes, sir.

Q Do you know Chinatown pretty well? A Yes, sir.

Q Of course the man who has to give information to sight-seers has to get the information for himself. How did you get your information of Chinatown? A I got it from other people, from a certain man named Hayes who was connected with Flat Iron Sight-Seeing Company.

BY MR. EDWARDS:

Q Whom were you with on the evening of May 3rd? A I was with a man by the name of Charlie Bounce. In fact I was by myself, I came from Wallack's Theatre. I saw Blanche Ring in

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the "Wall Street Girl," and walked over to the United Cigar Store.

Q Weren't you working on the rubber neck car that night?

A No, I just got back from Charleston, South Carolina. I was employed down there the entire winter.

Q What were you doing down there? A I had charge of a road house outside the race track.

Q Well, go on, tell me what you did that evening? A And after coming from the show I walked into a place at 43rd street and Seventh avenue on the corner and shot a game of pool. I came downstairs in about thirty minutes exactly, and I remember paying thirty cents, I came downstairs and walked into the United Cigar Store to buy a few cigarettes for myself, and was about to go home when I met a fellow who was constantly selling articles around there.

Q What is his name? A Bounce, he is selling to any people, usually to people he knows.

BY THE COURT:

Q What kind of articles? A He sells shirts and stockings and underwear and stuff of that kind. They give him orders. So he asked me whether I wanted anything and I said "Yes, I want some black stockings." He says "Well, I will see whether I have any down in the room." He says, "I have some down in the room, black stockings, some night shirts and underwear for you if you want it." I said "Well, I will wait for

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for you." He said "No, come down to the room, wait downstairs." So I walked down the street and I was shot upon. That's all I know.

Q When did you see Main before that? A Not before.

Q Never before? A Never remember seeing the young fellow. I might have seen him but I never noticed him.

Q Who was with you at the time?

BY THE COURT:

Q We have information about this. We want to see how it fits with yours.

BY MR. EDWARDS:

Q Who else was with you that night? A Nobody. Oh, you mean what time?

Q Up there on the street that night? A There was this fellow Charlie Bounce and another fellow, I hear he is very sick.

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

Q Well, he was with you that night, and don't you know who he was? A No, I don't know who he was.

Q Well, what did he look like? A He looked like a thin, sickly looking fellow.

Q So that there were three of you together? A Yes.

Q That's all? A Yes.

Q Who else was near you on the street, any one? A No, sir, not that I observed. There are a lot of people I know around

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there.

Q Do you mean to say you were just walking along the street at that hour of the morning and this boy shot at you without any preliminaries at all? A Well, I never had any dealings with the man before, never knew the man.

Q Answer the question, do you mean to say you were walking along 43rd street at that hour of the morning and that a man pulled the gun out and shot you without anything at all?

A Without anything at all, I never spoke to the man, never saw him that I know of.

Q And no one with you said a word? A Not that I know of.

Q Well, you were with them? A I was only with the fellow a couple of minutes.

Q How many shots were fired? A I believe three.

Q Well, I want to know how many you heard fired? A I heard three fired.

Q Is that all? A That's all I heard.

Q At any time? A Yes, sir.

Q Did you see all three fired? A Well, I tell you, I was greatly excited after seeing it.

Q Did you see all three fired? A I really, I walked into the bullets and there might have been ten shots after I got hit, I don't know that.

Q But you want the Court to understand that you were walk-

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ing on 43rd street, on the north side of the way that night, and suddenly were shot by this boy without anything being said, or anything being done or anything happening before that? A On my part:

Q And no provocation at all that you saw or know anything about, either on your part or some one else's? A Not before, but from what I heard later, from information.

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Q No, I want to know what you saw happen that time?

A Well, that night I didn't know anything. I walked on the south side of the street and I really couldn't realize that anyone was shooting at me. I thought somebody was killing somebody else and I stood there dumbfounded.

Q You and your two friends, what became of them? A I don't know what became of them. I only saw one of them a few times later, and the other one disappeared entirely and I heard he took, he was sick, he had consumption.

Q You don't know where those two men who were with you went? A I seen one once in a while around there.

Q Did you ever make any effort to have them come down and testify in the case? A No, sir.

Q When you were here before did you tell the District Attorney about them? A Yes, I told him I was with the man.

Q What District Attorney did you see? A If you mention the name I can tell it.

Q Mr. DuVivier? A Yes, that's it.

Q Did you make a statement to him? A I told him that I was about to buy a few stockings for myself.

Q Did you tell him anything about the other two men who were with you at the time of the shooting? A I told him I went down the street with two men.

Q You told him they were with you at the time the shots

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were fired? A Yes, sir.

Q And you don't know where they are now? A I do not.

MR. EDWARDS: He says he told it to DuVivier. There is nothing of that kind in the statement DuVivier took.

Q Now, you started to tell us about something you heard said, what was that? A Well, I heard this boy there -- I really do feel sorry for him myself, I heard he was abused by a lot of guerrillas around there ^{who} kicked him and knocked him about, and it just happened to be my luck when I walked down the street, I had a dark suit and a check cap and he mistook me for one of them.

Q Whom did you hear that from? A I heard that is common talk around the corner, I heard he is probably the one that suffered more than I did.

Q You mean that is common talk in that neighborhood?

A Yes, sir.

Q Among men that you know there? A I know a good many people around there.

Q I say, among men that you know there? A Yes, sir.

Q And what class of men are they? A Well, I never inquired into their lives.

Q But you know them? A Well, they are guerrillas, I know they are guerrillas and make their living the best way they can. I don't know how they make it. I never got any further into that.

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Q And these men around that neighborhood told you that this man was beaten up by a lot of guerrillas at one time?

A Yes, from what I heard they wanted to take twenty dollars off this boy here and when he didn't want to give it up willingly they kicked him and beat him on the corner and I believe myself, I know the fellow, he meant to in fact, he protected his own life by getting himself a gun and shooting there because from what I heard they were all around him trying to kill him, if they could.

Q Who were the men who were threatening his life? A Well, of course that is only rumor.

Q I know, but who did you hear they were? A Well, I don't know their names.

Q What are their nicknames? A They hang around there.

Q What are their nicknames? A I know them by sight.

Q Well, these men who told you about it, haven't they mentioned their names to you? A Well, I have never been around that corner very much.

BY THE COURT:

Q They belonged to a gang? A Yes.

Q What are the names of the men that belonged to that gang?

A I don't know.

Q You can tell us if you know; it is not going to hurt you a bit? A Well, I don't.

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Q You say you are sorry for this man here? A Yes, sir.

Q What do you mean by that? A From what I heard he was, he was abused around there, I guess he couldn't help himself, to protect himself.

Q Well, but he did not have any right to put two bullets into you? A I know, but I am probably not half as much hurt as he was.

Q Do you want to appeal to this Court for mercy for this man? A Yes, sir.

Q You do? A Yes, sir.

Q Why do you appeal to this Court for mercy for this man? A I think everybody deserted him, I think the poor boy was brought up, he was really forced to defend himself, in order to protect his own life.

BY MR. EDWARDS:

Q And that is based on rumors that you have heard from this gang of guerrillas around there? A Yes.

BY THE COURT:

Q You are the man who was shot? A Yes, sir.

Q Where were you shot? A In the shoulder and in the elbow.

Q Were the bullets extracted? A No sir.

Q They are both in you yet? A Yes, sir. One of them is in me and the other one just glanced off my elbow.

Q That is all.

THE COURT: I will have to remand this young

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man for some little time, without date. I will have to set on foot an investigation here, for further information.

Call that man Gumpel back.

(The complaining witness resumes the witness stand.)

THE COURT: I want to see the officer who had charge of that also.

(Officer Rinker is also recalled at the same time.)

BY THE COURT:

Q Now, Officer, I think during the absence of the detective-- how long will this man be gone?

MR. EDWARDS: Fitzpatrick is away on his vacation.

OFFICER RINKER: Your Honor, I don't know when he went.

MR. EDWARDS: I was told by my young man who called up the precinct that he will be back the 15th or 16th.

THE COURT: Now, I have not any doubt that this man could give us some information, perhaps not directly, but information which would lead pretty directly to the roundup of some of these fellows that were supposed to have assaulted this boy.

OFFICER RINKER: You mean Fitzpatrick, your Honor?

BY MR. EDWARDS:

Q No, this man here Edwards or Gumpel, he says he had heard rumors around that neighborhood which corresponded exactly with what this boy said, ^{about} his being beaten up. Edwards says he

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has heard that, he knows the men by sight.

OFFICER RINKER: He has never told me that.

Q Well, that is what he tells the Judge now.

THE COURT: Officer, I have nothing but compliments for you for your work here. I think you have done good work, and I want you to do more. I want you to help me locate that gang of fellows that were implicated in this thing, and this man can give you some information, and I wish you would keep informed as to this man's whereabouts, so that if you want him again he can give information, because he has acted so far in a very creditable way, a man who carries a bullet shot from the defendant, comes here to plead for him and says he believes he did the thing in selfdefense.

BY THE COURT:

Q (Addressing complainant) What is your name? A Ernest Gumpel.

BY THE COURT:

Q Officer, to whom shall I have to apply to direct you to give some of your attention to this case? A To the Commissioner- I guess. I don't know whether the Captain has that authority or not.

Q Who was your captain? A Capt. William F. Day.

Q Are you on 47th street? A Yes, sir.

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Q That would be what inspector? A Hayes.

THE COURT: Very well. Remanded indefinitely.

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