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

-----X  
THE PEOPLE  
vs  
GUISEPPE SCOLLO, VINCENZO  
DIELI and GUISEPPE ARCARDI.  
-----X

Before:

HON. T. C. O'SULLIVAN, J.,

and a Jury.

New York, February 26th, etc., 1912.

Indicted for Extortion.

Indictment filed December 29th, 1911.

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

ASSISTANT DISTRICT ATTORNEY ROBERT E. MANLEY, for the  
People.

WILLIAM A. SCHUMACHER, ESQ., for the Defense.

TRANSCRIPT OF TESTIMONY.

Frank S. Beard,  
Official Stenographer.

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(A jury was empaneled and sworn).

(Mr. Manley opened the case for the People).

MR. SCHUMACHER: If your Honor please, in view of the peculiar circumstances of this case, and as the result of the case will depend mainly upon the veracity of the witnesses, therefore I move that the witnesses be excluded.

MR. MANLEY: And I ask that all the witnesses on both sides be excluded until called.

THE COURT: Very well; the witnesses on both sides.

MR. MANLEY: The sixth juror has something to say to your Honor.

THE SIXTH JUROR: I would like to know if these people (indicating the defendants) understand English?

MR. SCHUMACHER: One of them does; the other two do not.

THE COURT: Mr. Juror, the Official Interpreter will be in attendance and will at the service of the counsel for the defendant whenever he requires him, and will interpret the testimony of any witness who does not speak English.

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THE PEOPLE'S TESTIMONY.

S E B A S T I A N O P I R O N E O, of 22 Hamilton Street,  
being duly sworn and examined through the Official Inter-  
preter, Mr. Mustachi, testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q Upon the 12th day of December last, Pironeo, where  
were you living? A 22 Hamilton Street.

Q Are you a married man? A I am.

Q And did you live there at that time with your family?

A No; my family is in Italy.

Q And you had been in this country how long? A 34  
months.

Q Do you talk English? A No.

Q And you are an Italian; are you? A Yes, sir.

Q Now, upon the 12th day of December, where did you  
work? A Worcester Street.

Q And for what firm did you work? A Brass works.

Q And how long did you work for that firm? A Nine  
months.

Q And will you state the name of the firm? A I can't  
pronounce that name.

Q See if you can't remember the name of the firm. Was  
it Warschawsky & Cohen? A Yes, sir; and they are here in  
court; one of the firm is here.

Q Now, you say that is on Worcester Street. Will you

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tell me between what streets it is on Worcester Street? A I don't know the names of the streets next to it.

Q You remember that it is between Houston and Bleecker Streets? A I think so; yes.

Q Now, on Tuesday, the 12th of December, what time was it you started from your place of business for your home?

A About ten minutes past six I left the factory.

Q And what street did you go down? A I took Houston Street and then I went through Elizabeth Street.

Q Now, how far had you got on Elizabeth Street before anything attracted your attention, or anything happened?

A When I entered into Elizabeth Street, just when I was going to reach Hester Street ----

Q Was anyone with you at the time? A We were three of us together.

Q What were their names? A One was Spinosa, and the other one Ferrari.

Q Now, what occurred as you got down towards Hester Street? A I was approached by the middle man there (indicating).

Q You are indicating the defendant Vincenzo Dieli?

A Yes.

Q Well, what occurred when he approached you? A He said to me, "Stop, I want to talk to you," and I said, "Say what you have to say, as I am going home".

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Q Now, what did he do, if anything, when he said, "I want to talk to you"? A He struck at me, but I dodged the blow (illustrating). And he said, "I want to talk to you," and then all three defendants came towards me.

Q From what direction did the other two defendants come towards you, Scollo and Arcardi? A I don't know. They happened to be in front of me. I don't know which way they came from.

Q Now, when the other two defendants, Scollo and Arcardi, came up, did either of them say anything? A Yes, sir. Scollo said, "It is five days I've been trying to find you; I've been spending five days to find you, and my day's expenses are \$25 a day, and my companions who are with me must be paid."

Q Go ahead. A I said to them, "You can kill me now. I haven't a cent." Then I said, "If you wait, I will ask my friend. He has got a bank book, and if he wants to loan me some money, I will give it to you."

Q Now, at the time these things were said can you tell me where Spinoso was? A He was nearby there, in hiding.

Q Well, did you hear any of the three defendants say anything to him? A He said to Spinoso, "GO ahead, and your companion will soon be here."

Q Well, who was it that said that to Spinoso? A I don't know.

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Q Well, which one of the defendants said it? Can you tell me? A Both of them; Scollo and the middle defendant there (indicating).

Q You are indicating Dieli? A Yes, sir.

Q Now, which one of the three defendants said to you that they had been looking for you for five days, and that their expenses were \$25 a day? A Scollo.

Q Did he mention any particular sum of money? A He told me I must pay them \$25 a day for five days.

Q Did he state to you what would happen to you if you did not pay the money? A Yes, sir. He said, "If you don't pay it up, you will never reach home to-night."

Q And what else did he say on that point, if anything, that you can now remember? A I said, "My companion has got a book and ---"

Q No, no, what else did he, Scollo, say to you upon that point, if anything? A Nothing else. And, if he had said something else, perhaps I don't remember it now.

Q Now, while this was being said, and after Scollo had repeated what you have told me, could you at that time see your friend Spinoso? A I did not.

Q Well, what did you say to the three men after they had told you what you have told me? A And I said, "My companion, Spinoso, has got a bank book, and, if he will loan me the money, I will pay."

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Q Now, after Dieli had spoken to you, and Scollo and Arcardi came up, did they say anything about fighting or scrapping when they came up? A Yes, when they approached me, they tried to fight with me.

Q Well, did you then start anywhere with the three defendants? A Then all three came together with me in search of my companion, to get the book.

Q Well, where did you go? A We went over to the bank, No. 3 Mulberry Street, I think it is.

Q Well, where did you go before you went to the bank? A I went in search of my friend, to get from him the bank book.

Q And where did you find him? A I went to the boarding place where we are living, and I couldn't find him there, and coming out of the boarding place, I met him and told him about it.

Q Now, on what street was that? A In Hamilton Street.

Q Well, did you finally find Spinosa down there in Hamilton Street? A Yes, sir.

Q And where was he when you first saw him on Hamilton Street? On the street or in the house? A No, in the street.

Q Well, did you talk to him, say anything to him? Just yes or no to that? A Yes, sir.

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Q Did you say it aloud, loud enough for the three defendants to hear you? A Yes, they could have heard me.

Q Well, in what language did you talk to Spinosa?

A My own language, Italian.

Q Now, what did you say at that time, in the presence and hearing of the three defendants? A I said to my companion only in the presence of Scollo, not the other two, I said in the presence of Scollo only, "I have been approached, to-night, under threat, to give some money. Now, will you lend me your bank book, and let me have the money," and he said, "All right. You are welcome to it."

Q And is that all that you said to Spinosa at that time? A Yes, sir.

Q Now, did the defendants or either of them, before you started to go down to Spinosa's house, and your house, say knowing anything about where you or Spinosa lived? A They did say that they tried to find me in my place, only they made a mistake as to the number of the address; that they had tried No. 23 and 24 Hamilton Street, but it was No. 22.

Q Well, which one of the three men was it that said that? A Scollo.

Q Now, did you tell your friend Spinosa, in the hearing of Scollo, what Scollo had said would happen to you, or what he would do to you, if this money were not paid? When you asked Spinosa to loan you the money, down there on Hamilton

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Street, and you say that Scollo heard what you said to Spinoso, did you at that time state to Spinoso what Scollo said would happen to you, if you didn't give the money?

A Yes, sir.

Q Well, now, what was it that you said to Spinoso on that subject? A I said to Spinoso, in the presence of Scollo, "I wish you would lend me your bank book and give me some money in the bank, because my life was threatened, and I must pay this money."

Q Now, did you state to Spinoso in what way your life had been threatened? A I said to Spinoso, "They asked me the money; otherwise I will never reach my home to-night."

Q Now, what did Spinoso say, in the presence and hearing of Scollo, after you told him that? A Spinoso said, "Let us go, and walk and get it. Whatever I've got, you are welcome to it."

Q And did you go anywhere? Or where did you go?

A To the bank.

Q What bank? A The Bank Termini.

Q What number and what street? A No. 3 Mulberry Street.

Q Did the three defendants go with you and Spinoso to the bank? A Yes, sir.

Q Had you before that night ever seen either of these three defendants? A No, sir.

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Q Well, who went into the bank when you five men got there? A Myself and Spinosa.

Q Did you and Spinosa go into the bank? A Yes, sir.

Q And where did the three defendants stay while you and Spinosa were in the bank? A Outside of the bank, on the sidewalk.

Q What did Spinosa do inside of the bank? A He presented the bankbook, got the money and gave the money to me.

Q How much money did he give you? A \$24.

Q Where was it that Spinosa gave you the money? In the bank or outside of the bank? A Inside of the bank.

Q After you had got the money, where did you go? A As soon as I got out of the bank, Scollo approached me, and I went together with Scollo.

Q What did you say to Scollo when you first saw him, after coming out of the bank? A I approached--- when Scollo approached me, I went to hand him the money, and he said, "No, come over with me, and I will show you where you will give me the money."

Q Did he say where he was going to take you? A No, sir, he didn't tell me where, but he brought me to Cherry Street.

Q And Cherry Street is how many blocks from where you lived on Hamilton Street? A About one block.

Q And whereabouts in the City and County of New York did

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he take you? A Straight through Catherine Street.

Q Who else went down to Cherry Street besides you and the defendant Scollo? A Myself and Scollo alone, and Dieli remained with my companion.

Q Did you see your companion --- I suppose you refer to Spinosa when you say your companion --- did he follow along behind you and Scollo? A Yes, he followed as far as Catherine Street, with Dieli.

Q And where was the defendant Arcardi, the man on the end there (indicating)? A Arcardi was on one side of the sidewalk of the street and the other one, Dieli, was on the other side of the sidewalk.

Q Then, as I understand it, the two defendants that you have named, Dieli and Arcardi, came behind you and Scollo?

A Yes, sir.

Q On different sides of the street? A Yes, sir.

Q On the sidewalk? A Yes, sir. I was with Scollo where he wanted me to pay him the money; I was going along with Scollo.

Q Where did Scollo take you, what place on Cherry Street?

A I don't know. A saloon.

Q Into what room of the saloon did he take you? A In the rear of the saloon, in a room which was dark. There was no light turned on yet.

Q And what happened in that rear room at that time? A I

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gave him the \$24 and I said to him, "As a countryman of mine, please give me one dollar out of that \$24, as I haven't got a penny," and he answered, "No, I can't do it."

Q What else was said at that time that you remember?

A Scollo then ordered three glasses of beer, and I said to him, "What do you think? That I am going to drink poison, after you took my money"?

Q And what did he say? A I wanted to go out, and he said "No, wait, we'll go out together."

Q Did you drink the beer? A No, sir.

Q Did he drink the beer? A Yes, he and his associate drank.

Q Now, at that time, did you owe Scollo or either of these three men \$24 or any other sum of money? A No, no.

Q Now, why was it that you paid Scollo the \$24?

A From fear that they would kill me.

Q Now, what was it that Scollo or any one of the three had said that made you believe that you would be killed?

A Because I was approached in such a way, because I never saw these men before, and because I had to keep cool in the matter.

Q Now, at the time when the three men first approached you, you have already testified, as I recollect it, that Scollo told you if you didn't pay the money, you would never see your home again that night. Now, do you recollect anything

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else that was said at that time, by way of threats, besides that? A Except that threat, that, in case I don't give them the \$25, I will never reach home that night; and seeing that there were three of them in front of me, I got afraid, and when I tried to defend myself, I tried to explain matters, they wouldn't let me talk.

Q Had you tried to run away at any time when the defendant Dieli first came up to you? A I did make an attempt but they surrounded me, the three surrounded me in a circle, and they placed me against some iron banisters, and there they had me back there.

Q Now, at the time they had you surrounded, the three of them, against these iron banisters, did they say anything to you? A One was saying to me, "We have consumed and spent five days, and it is \$25 a day," and the other ones were interfering, and saying, "We must get paid. We can't wait any longer."

Q Now, did any of the three defendants at the time when you saw them first on the street or anywhere, use the word "kill" to you, or that idea, in substance? A The first two defendants didn't tell me anything about killing me, but Scollo said, that night, "If I don't get the money, you will not reach home."

Q Did he say anything further along that line? Did he

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tell you in what manner you would not reach home, or what his idea was on that subject? A I understood him that he will kill me, and then I wouldn't reach home.

MR. SCHUMACHER: No, I object to what he understood. I want what was said by both of them.

THE COURT: Yes, strike it out.

MR. MANLEY: I consent.

BY MR. MANLEY:

Q Now, at the you paid the defendant \$24, were you afraid of injuries being inflicted upon you by either of these defendants? A Yes, sir, I was in fear of my life, because I have children and a family.

Q Did you pay the money to Scollo for any other reason than that you were laboring under fear of injury? A No, that's the only reason that I paid it.

Q Now, after you had given the money to Scollo in the saloon on Cherry Street, in the City and County of New York, where did you go next? A I went home with my companion.

Q Well, after you got out of the saloon, where was it that you saw your companion, Spinosa? A I saw him with Dieli.

Q Whereabouts was Dieli, on what street? A 84 Catherine Street, in front of 84 Catherine street.

Q When you got outside, did you also see the defendant Arcardi? A Yes, sir. When I came out of the bar, I saw him.

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Q Well, where was Arcardi; on what street? A In Catharine Street.

Q How far away from the defendant Dieli and your companion Spinosa, was Arcardi? A He and my companion Spinosa was on one sidewalk, and the other defendant was on the other sidewalk.

Q Well, how far apart were they? A The width of Catharine Street.

Q Well, where did you and Spinosa go? A We went home to have something to eat.

Q Did Scollo or any of the other defendants say anything to you after you came out of the saloon? A No. Then all three went away together.

Q Well, you went home to Hamilton Street; did you?  
A Yes, sir.

Q Now, when you went to work, the next morning, on the following day, did you see either of the defendants in the morning? A Yes, sir, I saw Scollo.

Q And where was he when you first saw him, the next day?  
A Immediately I came out of the door of my residence.

Q In Hamilton street? A Yes, sir.

Q Did he say anything to you? A He warned me not to say anything to the police.

Q Did he say anything else to you? A That's all.

Q Well, did you work that next day? A Yes, sir.

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Q And did Spinoso work? A Yes, sir.

Q Did he work in the same place that you worked? A Yes, sir.

Q Now, just answer this yes or no. Did you, on the next day, Wednesday, say anything to your boss about what had happened to you? A Yes, sir.

Q Now, what is the name of the boss that you spoke to about it? A Sam.

Q Well, is that man Cohen? A He is here. His name is Sam.

Q Well, is he a young man, about my height? A Yes, sir.

Q Smooth face? A Yes, smooth face.

Q Did you see a police officer later in the day, at Mr. Cohen's place? A Yes, sir.

Q Now, answer this yes or no. Did you tell him what had happened to you? A Tell who? Mr. Cohen or the police?

Q Did you tell the police officer what had happened to you? A Yes.

Q Now, what time was it when you left the shop, upon the next day, that is, Wednesday, the 13th? A At six o'clock, as usual.

Q Now, just answer this yes or no. Did the police officer tell you something before you left the shop? A Yes, sir.

Q When you left the shop at that time, who left with

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you? A Myself and Spinosa, and the detective followed us.

Q How far behind you was the detective when you and Spinosa were going out of the shop, that night? A About four or five paces.

Q Now, as you came out onto Worcester Street, did you see anybody near the shop? A Immediately when I left the factory, the three defendants surrounded me again.

Q Now, when you first came out of the factory, where were the defendants when you first saw them; in what part of the street? A They were facing in front of the factory, and, as soon as we came out, they were facing us.

Q Well, were they on the same side of the street as the factory, or on the opposite side when you first saw them?

A They were across the street, on the other side of the sidewalk, facing the factory.

Q How far had you got from the factory before they came and spoke to you? A About five paces.

Q What did they say to you when they came over, if anything; any one of them? A Dieli came to me and he says, "Have you got anybody in the factory that you don't like?" And I said, "No, everybody in the factory are my friends."

Q Well, what else was said? A Nothing else. At that the detective came and placed them under arrest.

Q Now, did you hear the detective say anything to the three defendants, or to either of the three defendants, when

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he placed them under arrest? A The detective came and said to me, "Are these the men?" --- the detective called me, he said, "Are these the men?"

MR. MANLEY: I consent that that be stricken out as irresponsible.

THE COURT: Yes, strike it out.

(Question repeated by the stenographer).

A I didn't hear anything.

BY MR. MANLEY:

Q Did you see the detective put any of the three defendants anywhere, right after they were placed under arrest? A He placed them against a wall there, waiting until the carriage came to get them.

Q Did you see him place any of them inside of a hallway at any time? A Yes, sir.

Q All three of them? A Yes, sir.

Q Now, at the time when the defendants approached you, on the night before, on Elizabeth Street, near Hester, do you remember if the defendant Arcardi, the man who is sitting on the right here (indicating), said anything? A No. I wanted to run away. I wanted to go, to run away, to get a policeman, but he wouldn't let me.

THE COURT: No, strike that out, what he wanted to do and what the other man would not let him do.

BY MR. MANLEY:

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Q Now, what did Arcardi do, as you started to run away, if anything? A He didn't do anything to me.

Q Well, you stated that you were backed up against a wall, and the three defendants were around you. Now, was Arcardi one of the three defendants who was around you when you were standing up against the wall? A That was afterwards. When I was first speaking with Scollo, it was in Grand Street, where there is an iron banister, that I was placed against.

Q Well, who placed you against the banister? A All three.

Q Now, do you recall whether at that time Arcardi said anything, while he and the other two men placed you against the banister? A They were all talking together, and Scollo said, "Stop. Let me talk."

Q Well, do you remember what Arcardi said at that time? A I can't remember. It's such a long time now, that I can't remember. It's three months ago.

MR. MANLEY: You may examine.

CROSS EXAMINATION BY MR. SCHUMACHER:

Q Now, you say you don't know these defendants? A No, sir.

Q Never saw them before the night of December 12th?

A No, no.

Q Which one of these defendants is Arcardi? A That

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one (indicating the defendant Arcardi).

Q How do you know that is Arcardi? A Because I know also the name of Dieli, the same as I know Arcardi by name, because they have been so often in the other courts that I had to attend to, that I know them by name.

Q Then you never saw either of these three defendants until the night of December 12th, you say? A No.

Q Now, let's come down to the night of December 12th. What time do you say you left your place of business? A About five minutes past six; at the utmost, ten minutes past six, we were out in the street.

Q Did you leave alone or was anybody with you? A We were three of us.

Q Now, give the names of those that were with you?

A One name was Spinoso and the other was Ferrari.

Q Now, where did you meet these three defendants?

A One at Elizabeth Street, and the other two near Grand Street.

Q Which one did you meet at Elizabeth Street? A Dieli was the first one I met.

Q Well, at the time you met Dieli, was Spinoso and Ferrari with you? A Yes, sir.

Q And they stayed with you until you met the other two; did they? A Yes, they were with me.

Q And they heard what Dieli said; did they not? A Dieli

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said, "In a minute, your companion will come back to you."

Q Now, that is not responsive. Did Spinoso and Ferrari hear what Dieli said to you?

MR. MANLEY: Well, I object to the form of that question, because it is a conclusion, whether they heard or not. He can state how far away they were, and then we can infer. I object to it as improper in form.

MR. SCHUMACHER: Well, I will withdraw the question.

BY MR. SCHUMACHER:

Q How close to you was Spinoso and Ferrari, when Dieli spoke to you? A About five metres.

Q What is that? A Metres.

Q About five metres? A Yes, sir.

Q Now, tell us what Dieli said to you?

THE COURT: Now, reduce that approximately to feet.

THE INTERPRETER: Well, about six or seven feet.

BY MR. SCHUMACHER:

Q Tell us what Dieli said to you? A He said he would like to speak to me. I said, "Go ahead, speak to me, because I want to go home."

Q And then what did he say? A And then his other companion came, that is, the defendant to my right (indicating Arcardi), he came along, and then, when Dieli tried to strike me, then the other one came on, Scollo.

Q Now, during all of this time what did your friend,

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Spinosa and your friend Ferrari do? A Ferrari went home, and Spinosa remained there.

Q Did they know that you were in trouble? A That I don't know, because I myself didn't know I was in trouble.

Q But Ferrari went on home, and Spinosa stayed there?

A Yes, sir.

Q Are Spinosa and Ferrari here in court, this morning, or are they going to be here as witnesses? A Spinosa is here. I don't know whether Ferrari is here.

Q Now, after that happened, what did you do? A As I said before, they said they wanted the money, and they said that, if I didn't pay it, I wouldn't reach home, that night, and so I went over to Spinosa and asked him for the bankbook and got the money.

Q Well, Spinosa was right there, was he not? A When I went for the money I had to go in search of Spinosa, thinking he was at home, and I couldn't find him at home, and, when I came outside, I saw him outside, in front of the home.

Q So that as soon as you were engaged in conversation with Dieli and Arcardi, both Spinosa and Ferrari left you?

A When I went over with Scollo to tell him, "Let's go to my companion and see if he will lend me the money," I looked around, and Spinosa wasn't there, and I said to Scollo, "Let's go home and try to get the book. He may be at home now."

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Q Now, did you know where Spinoso lived? A He is together with me. We reside in the same place.

Q And you went and got him? A I didn't find him inside, I told you before. I found him outside.

Q Well, then, after you found Spinoso, what did you do?

A I told him that these persons have approached me, and threatened my life, and that I wanted this money to pay them, and get rid of them, and he said, "All right, I'll give you the book."

Q How did they threaten your life? A I'm not telling you any lies. I don't tell you that they threatened me with a pistol or a knife. I am telling you that they have threatened me in such a way as to my not being able to reach home, that I will not be able to reach home, and, also, when I wanted to explain matters, to reason with them, they would not let me explain. That was threat enough for me.

MR. SCHUMACHER: I will ask your Honor to strike that out. That is not responsive.

THE COURT: Yes, strike it out.

BY MR. SCHUMACHER:

Q How did they threaten your life? What did they say?

A They threatened my life as follows, that they said, "We have been looking for you for five days. We must be paid \$25 for each day that we have wasted, and, if you don't pay up, you will not reach home."

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Q That is all that they said? A Yes, sir.

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

Q Now, after you met Spinosa, and told him what they had said, what did you do? A We went to the bank and got the money and paid.

Q What bank did you go to? A No. 3 Mulberry Street.

Q Have you an account at that bank? A No.

Q Did these defendants go with you to the bank? A Yes, sir.

Q Now, what happened when you got to the bank? A When we reached the bank, my companion handed the bankbook in, and got the money, and handed the money to me; and, when I went to pay the money to Scollo, he said, "No, come along with me."

Q Where was Scollo when you went to pay this money to him? In the bank or outside? A No, outside the bank.

Q Were the other two defendants there at that time?

A Yes, sir.

Q Did you give Scollo the money at that time? A I offered it to Scollo, and he said, "No, you will give me that money where I will bring you to."

Q Then where did he bring you to? A To Cherry Street.

Q To what place in Cherry Street did he bring you to?

A It is a saloon.

Q Did you go into the saloon with Scollo? A Yes, sir.

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Q Did the other two defendants go along with you?

A No, sir.

Q Now, what happened inside of this saloon? A I gave him the money.

Q How much money did you give him? A \$24.

Q All in one dollar bills or in what kind of money?

A Two \$10 bills, and one \$2 bill, and two single dollar bills.

Q Was anybody present at the time you gave him this money? A Nobody.

Q Was the saloon-keeper there? A No.

Q Just whereabouts were you in this saloon when you handed him this money? A In the rear of the saloon, in a room.

Q After you handed him this money what happened? A I asked him for a dollar, and he wouldn't give me a dollar. And then he ordered three beers.

Q Now, what day of the week was this? A It was on a Tuesday night, the 12th of December.

Q And you had been working right along for the firm of Cohen and somebody else for the period of eight or nine months?

A Yes, sir.

Q When do they pay you? When is pay-day? A On a Friday night.

Q How much salary did you get there? A \$9 a week.

Q You got paid the Friday before? A Yes, sir.

Q And you didn't have a penny left on Tuesday? A I had

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one penny.

Q One penny? A Yes, sir.

Q And you expected that to last you until next pay-day; is that right? A I always had a good credit with my friends in the factory; I could always borrow some money for food; and even if I went to my own boss, he will advance me.

Q Now, you say that Scollo ordered three beers; is that right? A Yes, sir.

Q Now, who was the third beer for, if only you and Scollo were there at the time? A One of the defendants was inside of the bar. I found him afterwards in the bar.

Q Which one of the defendants was inside of the bar? A He isn't here. He's one of the defendants. He isn't here now.

Q Well, who was the other man that was there? A I don't know him.

Q Then, as matter of fact, you were not alone with Scollo? A I and Scollo were together in the backroom. This other party was in the bar.

Q Now, who drank the beer? A Both of them.

Q When you say both of them, who do you mean? A Scollo was one and the other one was the stranger that was in the bar, the man that I don't know.

Q Now, didn't you testify that Scollo and his associates drank beer, on your direct examination? A No.

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Q And, if you did so testify, that was wrong? A The other two defendants at the time were outside on the street, and this other party was a stranger that was at the bar.

Q Did you stay there until the beer was all consumed?

A I did want to go out, but they wouldn't let me. They said, "Wait, and we'll go out together."

Q Who drank the third glass of beer? A I don't know who drank it because I left the third glass there, filled, on the bar.

Q Now, when you left the saloon, who was the first one that you saw? A I saw Dieli. He was together with Spinoso.

Q And Spinoso is your friend? A Well, we are working together, and that's the reason we are friends.

Q Where was Arcardi at the time? A He was on the other sidewalk, on Catherine Street, and then they all three joined together.

Q About what time of day was this that you went into this saloon with this money and gave it to Scollo? A It was about seven o'clock at night.

Q There were not very many people around the streets at that time; were there? A Certainly there were; passers-by, but I didn't count them, I didn't have time to count.

Q How far was this saloon from the bank? A It was about six minutes walk.

Q Did you pass any policeman during this six minutes?

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walk? A No, I didn't meet any.

Q You didn't look for a policeman at that time; did you?

A I did want to look for one, but I couldn't, because they were watching me too close.

Q Do you know the saloonkeeper at this place where they took you? A No, I never was there before.

Q And you want to tell us that you walked along the street for about six minutes, passing people, time and again, without making any outcry or calling for any help? A How could I call for help, when I was surrounded by three persons that I didn't know any minute they might kill me?

Q They didn't gag your mouth; did they? They didn't gag you; did they? A No, sir.

Q Now, after you gave him the money what did you do? A They went away.

Q No, what did you do? A I then joined my companion, and went home to have something to eat.

Q Now, after they left you, instead of going with your companion home, why didn't you look for a policeman then?

A I went the following day.

Q Why didn't you go then, at that time? A Because I can't express myself in the English language, I can't talk in the English language, and so I thought I would wait until I could find somebody to express himself for me in English.

Q Well, didn't you know that there were Italian officers

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and Italian detectives around that particular neighborhood, and at that particular station house? A I was thinking that there is people in the factory that are Italians and can speak good English, and I was thinking that they could explain matters better than I could, and I could use them to explain for me.

Q How long had you been living in that neighborhood?

A 12 days there.

Q Where had you lived previous to that time? A In James Street, 65 James Street.

Q Now, that is in the same locality; isn't it? A Yes, sir.

Q Did you ever see any Italian officers around there?

A No.

Q Now, when you went to the police station to whom did you make your statement?

MR. MANLEY: There is no testimony that he went to the police station, but that he told his boss, the next morning.

THE COURT: Proceed.

MR. SCHUMACHER: He certainly signed a sworn statement in the Magistrate's Court or in the Police Court, in order to ----

MR. MANLEY: Well, of course, the Police Court and the station house are entirely different things. Ask

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him about the Police Court.

BY MR. SCHUMACHER:

Q When you went to the station house to whom did you make your statement there? To a man who understood Italian?

A Yes, sir. And I went with the head man of the factory.

Q Now, did you make a statement there and swear to it, in which you said as follows: "That deponent fearing said threats, went to a bank at 3 Mulberry Street, followed by defendants, and there withdrew \$24"? A No, not myself, no, sir.

Q "And gave same to defendants"? A My companion withdrew it and my companion gave it to me, and I gave it to them.

Q Is that your signature? (Indicating the Police Court complaint) A No, sir, that's the City Magistrate's signature.

Q No, the one above (indicating)? A Yes, sir.

Q Now, you signed that and swore to it, did you not? A Yes, sir.

Q You knew what you were swearing to at that time; didn't you? A I didn't know what is written in this complaint. They only asked me to sign it, as I can't read the English language.

Q Did anybody tell you what was in that complaint before you signed it? A I don't remember where did I sign this complaint.

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MR. MANLEY: I don't make any objection, if you want to offer it in evidence.

MR. SCHUMACHER: I am going to offer it in evidence, yes.

MR. MANLEY: Then you needn't prove anything more. Just offer it, if you want to.

MR. SCHUMACHER: I offer this in evidence, if your Honor please.

MR. MANLEY: No objection.

THE COURT: It is received in evidence.

(It is admitted in evidence by consent and marked Defendants' Exhibit 1).

(Mr. Schumacher reads the exhibit to the jury).

BY MR. SCHUMACHER:

Q Now, Mr. Pironeo, is your memory good or bad? A I am 43 years old, and my memory has always been clear, and I never was sick in my life.

Q You have never been treated for any mental derangement of any kind? A Never.

Q Not in the habit of forgetting things very readily; are you? A Nothing. Whatever I know, I can remember a hundred years to come.

Q Did you ever tell anybody that you were not sure whether these were the three persons who held you up for this \$24 or not? A No, I did not.

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Q Do you know Constantina Arbo? A I know only these three (pointing at the three defendants at the bar), and I know that they are the people. I don't know what their names are, and, if I do know their names now, it is through hearing their names in court.

Q That's not responsive. The question is whether you know Constantino Arbo? A No.

Q And you never made any such statement to her, that you were not sure that these were the three people who attacked you and held you up for this money? A I said nothing to nobody.

Q You have been in the House of Detention, haven't you, since the arrest of these defendants? A Yes, sir. A man came in the House of Detention, but I don't know his name. He said he was a countryman of the defendants, and told me that I have to deny everything in the court.

Q Did you talk to anybody there in the House of Detention about this case? A A man came in the House of Detention, and said to me that he was a friend of the defendants, and asked me how the whole thing happened, and I told him how the whole thing happened, and he told me to deny everything in court, and I said to him, "I will not deny anything what happened. I will tell the truth."

Q Do you know Eugene Porta? Yes or no? A If you bring me the person before me, I may say that I know him, but I don't know him by name.

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MR. MANLEY: Call him in if you have got him here.

BY MR. SCHUMACHER:

Q Do you know Alfred Astuti? A Yes.

Q Did you ever talk to Alfred Astuti about this case?

A Yes, I spoke with Alfred Astuti; I did talk to him about the same thing that I said here in court, I told him exactly what I said here now.

Q Now, didn't you tell Alfred Astuti that you were not sure whether these were the real defendants or not, but that you said so in the Police Court, and you were going to stick to it? A No, no, nothing of the kind, no, sir.

Q Do you know where Alfred Astuti? A No, sir.

Q Have you ever been treated for any form of insanity, or been in an insane asylum? A No, no.

RE DIRECT EXAMINATION BY MR. MANLEY:

Q How far did you walk upon Elizabeth Street, after the defendant Dieli had spoken to you before the other two defendants came up? A About five metres.

THE INTERPRETER: That is equal to about six or seven feet.

A (Continued) And then, by degrees, we kept on walking after them until we reached near Grand Street.

Q Well, had you seen the defendants Scollo and Arcardi

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before you got to Grand Street? A Arcardi, yes, but not Scollo.

Q Howfar had you gotten before Scollo came up? A About ten metres.

Q Now, did the man Ferrari that you say was with you, and had started with you from the factory, did he stay on the street at any time or go right home? A All together, we were walking together.

Q Did Ferrari stay there or walk away? A Afterwards he went away.

Q Now, you testified that, down there in front of your house you asked your companion Spinosa for the money, and you said to him, in the presence of Scollo, that you had been threatened. Now, when you said that, did the defendant Scollo say anything? A No.

Q Where was it that you saw the man, the fourth man, whom you say you saw in the saloon on Cherry Street; where was it that you first saw him that night? A That's the first time when I saw him, in the bar.

Q And that was the first time you had seen him, that night? A Yes, sir.

Q Can you tell me the name, or have you since heard at any time the name of the man who came up to see you about this case in the House of Detention? A I don't know his name.

MR. MANLEY: If your Honor please, to save time,

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may I have the two men, Constantina Arbo and Alfred Astuti, brought in, to ask him if he has seen them before? I understand that they are outside.

MR. SCHUMACHER: Constantina Arbo is a woman.

MR. MANLEY: Well, he has said that he would know if he had seen them before, if he saw them now.

MR. SCHUMACHER: But they are not here now, I am told.

MR. MANLEY: very well, then.

BY MR. MANLEY:

Q Can you describe him, can you tell us what he looks like? A He was short and stout. I don't know whether he had a mustache on. I don't remember that. It was the first time I saw him.

Q How long ago was it that you first saw Alfred Astuti?

A He was in the House of Detention, this Alfred Astuti, about 40 days.

Q Did you know him before you went to the House of Detention? A No, sir, I had known him in the House of Detention.

Q Well, you met him in the House of Detention; did you? A Yes, sir.

Q And was he detained there as a witness at the time?

A I don't know why he was there.

Q Now, then, just answer this question yes or no. Did

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you have a talk with him about this case, about this charge against these defendants? A Yes, sir.

Q What did he say to you and what did you say to him?

A I told him all that happened, what I said here to-day, I told him exactly the same thing.

Q And did he say anything to you about his knowing any of these three defendants? A No, sir.

RE CROSS EXAMINATION BY MR. SCHUMACHER:

Q Now, when did you next see Pietro Ferrari, after that evening? A I see him in the factory two days longer, when we are working in the factory.

Q Did you have any talk with him about this case?

A No, sir.

Q Did you tell him that you didn't know why you had had these people arrested; that you were not sure they were the right people? A No, no. I told to Ferrari all about the case, and Ferrari said, "Well, if you are not sure of the whole thing, don't say so, but, if you are, say the way it happened."

Q So that you were not absolutely sure at that time; were you? A Yes, I am sure that it is them, because they brought me to one corner of the street and then to the next, and then to the bank, and then to the saloon, so I can't be mistaken that they are the three men.

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FRANCESCO SPINOSA, of 22 Hamilton Street, a witness called on behalf of the People, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q Upon Tuesday, the 12th of December last, were you employed at the place where Sebastiano Pironeo, the complaining witness, was employed? A Yes, sir.

Q And were you living at the same place where he was living, on Hamilton Street? A Yes, sir.

Q Now, some time in the early evening of that day, were you walking with Pironeo south on Elizabeth Street? A Yes, sir.

Q Now, tell what happened? A That man (indicating Dieli) approached the complainant, and said, "I want to speak with you."

Q Go ahead.

MR. SCHUMACHER: Just one moment. Ask him to talk louder, please, Mr. Interpreter. The defendants can understand his testimony.

A (Answer continued) Then I approached, to see what the complainant was going to do with this defendant and the defendant Dieli said, "You go away. I have some talk with your friend here. I want to talk with him," and I withdrew.

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Q. Now, was there anybody else with you at that time, with you and Pironeo? A. There was another man named Ferrari, with us.

Q. And what became of him at that time? A. Ferrari said, "What have you got to say to my friend, my countryman? Whatever you have to say, say it, because I have to go away with him."

Q. What happened next? A. Then Dieli said, "You go away, and your friend will be soon back with you again."

Q. And what did you do when he said that the second time? A. Then I went away, walked about twelve paces away, and I noticed at that distance that three persons had my friend, the complainant surrounded.

Q. Now, when you started to walk away, what became of Ferrari? A. Ferrari went home.

Q. Did you see him walk away? A. Yes, sir.

Q. Now, when you had walked these twelve paces that you talk about and looked back and saw your friend surrounded, did you see anybody else near him besides the defendant Dieli?

A. I saw only these three men that are here. (Indicating the defendants)

Q. That is, these three men sitting at the table (indicating the defendants)? A. Yes, sir.

Q. Now, when you got these twelve paces away, and looked around and saw the other two defendants there, with Pironeo

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and Dieli, could you hear anything that was said, or were you too far away to hear anything that was said? A I couldn't hear. I was quite a distance.

Q Did you see what any of them did? Could you tell me what motions, if any, any of them went through? A I couldn't see, except that I saw the complainant in the middle, and all three of them surrounding him.

Q Well, were they just standing there or what did it look like to you, that is, if you saw any motions or anything of the kind, describe it? A I noticed at a distance that all three were against an iron bar, iron bars, against the wall.

Q How close were the three defendants to Pironeo? A Pironeo was in the middle and all these three defendants were close to him, surrounding him.

Q Now, did you stand there or walk on? A I stood still, standing, but at a distance.

Q Now, why didn't you go back to where Pironeo was?

A I was scared.

Q Had you ever seen any of the defendants before that night, the three defendants? A Never.

Q Well, where did you go after that? A I went home, then.

Q To 22 Hamilton Street? A Yes.

Q Did you see your friend Pironeo there, a little later

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on? A Pironeo came to me and said, "Have you got the bank-book on your person?" And I said, "What do you want it for?" And Pironeo said, "These three persons whom you saw approaching me want the money, or otherwise they will kill me."

Q Now, at that time did you see anybody on Hamilton Street, besides Pironeo? A They all three were on the sidewalk.

Q Now, what else, if anything, did Pironeo say to you in the presence of the three defendants or either one of them? A Not in their presence. He never said anything in their presence.

Q How far away do you think they were at the time he said what you have told us? A About six or seven paces distant. One was on one sidewalk, and the others were on the other sidewalk.

Q Well, which one was on the same sidewalk that you and Pironeo, on the same side of the street? A That man (indicating Scollo).

Q Now, did Pironeo in the presence of Scollo say anything to you about money that he had in the bank? A No. That I don't know.

Q Well, do you know whether or not Scollo was near enough so that he could hear it? A No, he couldn't hear it.

Q How loud did Pironeo talk? A The same way as I am

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talking now.

Q How many feet do you think that Scollo stood away from you and Pironeo, when you had that talk? A Six or seven paces

Q Did you at that time have any money in the bank?

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until two o'clock).

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After Recess.

MR. MANLEY: Now, may I put on the stand a witness, Guiseppe Termini, who is a banker and anxious to get away? It will only take a few minutes.

MR. SCHUMACHER: What is that? I didn't hear you.

MR. MANLEY: Mr. Schumacher, I suggest that I call a banker, so that he may go away. Any objection to that?

MR. SCHUMACHER: No, certainly not.

MR. MANLEY: Mr. Termini.

THE CAPTAIN: There is no answer.

MR. MANLEY: Very well, then, we will recall the witness Spinoso, who was on the stand at recess. If your Honor please, I have sent upstairs to get the witness who was in the House of Detention. He is now on the third floor of this building. He should have been produced here at recess.

FRANCESCO SPINOSA, his direct examination being continued, testified as follows:

DIRECT EXAMINATION CONTINUED BY MR. MANLEY:

Q, Now, I think the last question I asked you was whether you had, on the night this thing happened, money in the bank?

A Yes.

Q Whereabouts was the bank? A Guiseppe Termini's bank.

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Q Where is that? A 3 Mulberry Street.

Q Did you go to the bank, that night? A Yes, sir.

Q How much money did you have there on deposit? A \$24.

Q With whom did you go to the bank, that night? A With my countryman.

Q Well, what is his name? A Sebastiano Pironeo.

Q Did anybody else go with you and Pironeo to the bank?

A There was Scollo there.

Q Well, did you start from 22 Hamilton Street, you and Pironeo and Scollo to go to the bank? A Yes, sir.

Q And what became of the defendants Dieli and Arcardi?

A They were waiting outside of the bank, on the sidewalk.

Q Well, did they go from 22 Hamilton Street over to 3 Mulberry Street with you three men? A Yes, sir, they were coming after us.

Q Now, which one of your five men was it that went into Termini's bank? A Myself and my countryman.

Q And were the other three --- where were the three defendants --- when you two men went into the bank? A They were waiting outside.

Q Did you have a bankbook? A Yes, sir.

Q Did you have it with you? A Yes, sir.

Q Did you present the bankbook to Mr. Guiseppe Termini?

A Yes, sir.

Q And did you get the \$24? A Yes, sir.

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Q Did you take your bankbook away with you or did you leave it in the bank? A Left it in the bank.

Q After you got your \$24, what did you do with it?  
A I gave it to my countryman.

Q Now, did you go anywhere after getting the money and giving it to your countryman, Pironeo? A We went through Catherine Street.

Q When you and Pironeo came out of the bank on Mulberry Street, did you see anyone talk to, or say anything to Pironeo, or see him talk or say anything to anyone? A I saw him talking with a short fellow (indicating Scollo).

Q With the defendant Scollo? A Yes, sir.

Q Were you near enough so that you could hear what they said? A No.

Q Well, after Pironeo and Scollo had talked to each other, did you see what Pironeo and Scollo did? A I remained with the others and Scollo and Pironeo went away.

Q When you say the others what do you mean? A With the middle fellow (indicating Dieli), and with the other man (indicating Arcardi).

Q Now, did either Pironeo or Scollo say anything to you before they started to walk away from the bank? A No, sir, nothing.

Q In what direction did the defendant Scollo and Pironeo, the complaining witness, walk? A They went through Catherine

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Street.

Q How far behind were you and the other two defendants, Dieli and Arcardi? A Twelve paces.

Q Now, did Pironeo and Scollo turn into any street off Catherine Street? A I did not.

Q Did they stay on Catherine Street all the time? A I stayed there, and they didn't see us.

Q Well, near what street did they disappear? A I don't know the streets.

Q Well, how close were you to Hamilton street when you noticed that they had disappeared? A About 20 paces.

Q Now, after the defendant Scollo and Pironeo had started to walk away from the bank, did either of the other defendants, Dieli and Arcardi, say anything to you? A Yes.

Q Which one said something to you first? A Dieli said something.

Q What did Dieli say? A Dieli said --- I said to Dieli myself, "Why do you take this money away from this father of a big family?" And Dieli said, "This is our trade."

Q Did he say anything else besides that, "This is our trade"? A That's all.

Q Now, how close to the defendant Dieli was the defendant Arcardi, when Dieli said, "This is our trade"? A Dieli was talking with me, and Arcardi was across on the other side of the street, on the sidewalk on the other side of the street.

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Q Now, how far had you got from No. 3 Mulberry Street when Dieli said this to you? A We were in Catherine Street when he told me that.

Q Now, how far had you got from the bank before Arcardi separated from you and Dieli? A About 10 or 12 paces.

Q Now, after Scollo had left with Pironeo, and you and Arcardi and Dieli were near the bank, did Arcardi at that time say anything to you? A I only talked with Dieli. When I asked him why he took the last cent from the father of a family, he said, "That's our trade," but the other one didn't talk.

Q Now, I understand that that was said on Catherine Street and the money was drawn on Mulberry Street. Now, when you came out of the bank with Pironeo, and Scollo and Pironeo walked away together, at that time, when you came out of the bank, how close were the other two defendants to the bank at that time? A They were across the street, on the other sidewalk.

Q And were they together at that time? A Yes, sir.

Q Now, did you go across the street to where they were, or did they come to where you were? A I went my way and they followed.

Q Now, when they followed did they come up to where you were? A Yes, sir.

Q And were they together while they followed you?

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A Yes, they were together.

Q Upon what street were you when one of them first spoke to you? A Catherine Street.

Q And were each of them together when one of them spoke to you or had they separated? A He went on the sidewalk on the other side of the street.

Q Who did? A The other man, that man (indicating).

Q You indicate the defendant Arcardi? A Yes, sir.

Q At the time then that Dieli spoke to you on Catherine Street Arcardi was on the other side of the street; is that it?

A Yes, sir.

Q Now, did you wait any where on Catherine Street before you next saw the defendant Scollo and your countryman Pironeo?

A I waited at 84 Catherine Street and then they came.

Q What is 84 Catherine Street? A There is a store there. I don't know what it is.

Q Did you wait on the street or inside? A I was on the sidewalk.

Q Were you alone, or were the other two defendants Dieli and Arcardi with you? A Well, Dieli was with me.

Q And where at that time, when you next saw the defendant Scollo and Pironeo, where was Arcardi? A He was on the opposite side, on the sidewalk.

Q Now, when Pironeo came back onto Catherine Street, did you go anywhere with him? A We both went home, I and Pironeo.

Q And did you see the three defendants, Giuseppe Scollo,

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Vincenzo Dieli and Guiseppe Arcardi on Catherine Street; before you and Pironeo started for home? A Yes, sir.

Q Well, were they separated or were they together, when you started home? A They were together.

Q Now, did, on the following day, see any of these three defendants? A In the morning, the next morning, we were going to the factory, and Scollo was behind the door.

Q Behind the door where? A Behind the door, No. 22 Hamilton Street.

Q Who was there with you at the time? A My own countryman.

Q Well, what is his name? A Sebastiano Pironeo.

Q Did you hear Scollo say anything to Pironeo, or did he say anything to you? A Yes.

Q What did he say? A He told him, "Don't say anything to the police."

Q Now, did you, this same day, see three defendants, later in the day? A No, I did not, but I saw them that night.

Q Where were they, on what street? A I don't know the street.

Q Well, is it the street where you worked? A Yes, sir.

Q Who was with you at the time? A Myself and the complainant and a man named Ferrari.

Q Anybody else? A No.

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Q Was the officer there, Officer Trabucci? A He was a distance behind us.

Q When you came out of the factory, that night,--- question withdrawn. What time was it? A At about ten minutes past six or a quarter past.

Q When you came out of the factory did you see the defendants? A Yes, sir.

Q Where? A Across the street, on the sidewalk.

Q That is, across the street from where the factory is? A Yes, sir.

Q Did you see them do anything? A Dieli placed his hand on my neck, seized hold of my neck and Scollo went towards the complainant, and then the officer came and placed him under arrest.

Q Now, when Dieli caught you in that fashion, did he say anything to you? A He didn't say a word, because he didn't have a chance to say anything, because the police took hold of him.

Q Well, did the officer come up right away after Dieli caught you? A Yes, sir.

Q Now, did you hear Scollo say anything to Pironeo? A Nothing at all.

Q Well, when the officer came up what happened then? A He placed them under arrest.

Q Did you see the officer put them into any hallway?

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A Yes, sir.

Q Did you stay on the sidewalk or were you inside the hallway at the time? A At first I went on the sidewalk, and then I went into the corridor.

MR. MANLEY: Is Mr. Termini here?

A MAN IN THE AUDIENCE: Yes, sir.

MR. MANLEY: Can I have that book?

MAN IN THE AUDIENCE: Yes.

BY MR. MANLEY:

Q Can you read Italian? A Yes.

Q Look at that book and tell me whether that is your book or not? A Yes, sir, it is my book.

Q And is that the book that you took to the bank on that night and surrendered to Mr. Termini? A Yes, sir.

MR. MANLEY: I ask that it be marked for identification.

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

MR. MANLEY: You may examine.

CROSS EXAMINATION BY MR. SCHUMACHER:

Q Mr. Spinoso, do you know these three defendants?

A Yes, sir.

Q How long do you know them? A The first time they approached my countryman, my friend, the complainant.

Q When was that? A On the 12th of December.

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Q Of last year? A Yes, last year.

Q Now, whereabouts was this? A Elizabeth Street.

Q Elizabeth Street near what street? A I don't know the street. Don't ask me to name the streets.

Q Was it the corner of Elizabeth and Spring Streets?

A Yes, sir.

Q Then you do know where it was? A I know it is a corner, but I don't whether it is Spring or Elizabeth. I am a very short time here in America, and I don't know the names of the streets.

Q How long have you been in America? A Three years, and I lived uptown; I never lived downtown.

Q When you first saw them were they all together? A Only one.

Q Which one? A Dieli, the middle one there (indicating the defendant Dieli).

Q Did he say anything to you when you met him? A He only told me to get away, and said, "Your partner will soon follow you."

Q And who else was with you and the complaining witness?

A A man by the name of Ferrari.

Q Did you hear what Dieli said to Pironeo? A No, sir, because he chased me away.

Q And then you didn't hear any of the conversation that took place? A No.

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Q Well, then, you went away; did you? A Yes, sir.

Q Where did you go? A Home.

Q Did you go upstairs in your house? A I went to 22 Hamilton Street.

Q Did you go upstairs or go into the house at 22 Hamilton Street? A I didn't reach upstairs, I didn't reach in the house.

Q Well, you were going home; were you not? A I was on my way home.

Q Well, why didn't you go on, why didn't you continue on your way-home A Because my countryman called me and wanted the book for the money in the bank.

Q What did he say to you? A He asked me whether I had the book with me, and I said, "What do you want the book for?" and he said, "Because I must have some money, because these people have threatened my life."

Q Did he say anything else? A Nothing else, except that I went to the Bank Termini and gave him the money.

Q Well, did he say anything else, outside of the fact that these people were threatening his life? A That's all.

Q Now, you are absolutely sure about that? A That I am sure of, yes.

Q He didn't say to you that they were going to kill him; did he? A Yes.

Q Well, then he did say something else; didn't he?

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A Well, I told you before that he said, "They threatened my life and want to kill me."

Q Well, what else did he say? A And he told me to give him the money, "Because I must pay it to them."

Q Where were you when he said that you to? A Near my home. I was on my way from my home, and then I went right back.

Q Where did you have the bankbook at the time? A I had it in my pocket.

Q When Sebastiano Pironeo spoke to you, did you see any of these defendants? A I only saw the man Scollo.

Q And where was he at the time? A On the sidewalk, right behind us.

Q Then what did you say to your countryman, after he asked you for the bankbook? A I said, "All right, I'll draw the money from the bank and you can have it."

Q Are you related to this man Sebastiano Pironeo?

A No.

Q How long have you know him? A Five or six months, where we have worked together.

Q Did you ever loan him any money before? A No, sir.

Q But still, on this occasion, you were ready to loan him \$24? A Yes, he asked me and I gave it to him.

Q And that is all the money you had in the bank at the time? A That's all; \$24.

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Q Well, then, you went to the bank, did you? A Yes, sir.

Q Well, who was with you when you went to the bank?

A Myself and my friend.

Q Were either of the defendants with you? A No, sir.

Q Who all went into the bank? A Myself and my countryman.

Q And you drew the money? A Yes, sir.

Q How much money did you draw? A \$24.

Q In what denominations? A Two \$10 bills, one \$2 bill and two single dollar bills.

Q And what did you do with that money? A I gave it to my countryman, outside in the street.

Q Outside in the street you gave it to him? A Yes, sir, immediately after we got out of the bank.

Q Did any of the defendants see you give it to him?

A Scollo saw me giving him the money. The other two were further down, in hiding.

Q Well, what happened after that? A I went, and I saw them going as far as 84 Catherine Street, and then they came out --- the complainant came out, and we both went home together.

Q 84 Catherine Street, what kind of a place is that?

A There is a bar there, and stores.

Q Is there a saloon there, in 84 Catherine Street?

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A yes, sir.

Q Did you go into the saloon? A No, sir.

Q Who went into the saloon? A Nobody entered into the bar. I only saw them going along.

Q You didn't see the defendant Scollo and your countryman, Sebastiano Pironeo, enter a saloon; did you? A No.

Q And you didn't wait outside for them to come out again; did you? A I remained at No. 84, and they went quite a distance. I didn't see where they went.

Q Well, now, when did you see your countryman again?

A When they came back.

Q And in the meantime you don't know where they went to; do you? A No.

Q And when I say "they", I refer to your countryman, the complainant Pironeo, and the defendant Scollo? A No, I don't.

Q And where were the other two defendants during all this time? A One was talking to me, and the other was on the sidewalk, waiting.

Q When your countryman came back, was the defendant Scollo with him? A Yes, they came back together.

Q You didn't see Pironeo give any of these defendants money; did you? A No.

Q Didn't you testify in the Police Court that you saw him giving them money in front of the bank? A That I didn't say.

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Q Absolutely sure about that? A I'm not sure.

Q Will you swear positively that you did not say it?

A I am not sure.

Q Now, are you just as sure about the rest of your testimony as you are about this question?

MR. MANLEY: Oh, I object to that as incompetent.

THE COURT: I will allow it.

A That's the same testimony that I gave before.

BY MR. SCHUMACHER:

Q You have been in the House of Detention with your countryman, the complaining witness, right along; haven't you?

A Yes.

Q And you have been talking to him about this case?

A No.

Q Do you mean to tell this Court and jury that you have been in the House of Detention for over two months with your countryman, and haven't talked to him about this case? A No.

Q Not one single word during those entire two months have you said to him about this case? A Yes, we were wondering when the case was going to come up, and I was telling him, "I wonder when it will come up, and perhaps never," I said to him.

Q But you didn't talk to him about the case or the merits of the case? A No.

Q Do you know Pietro Ferrari? A Yes.

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Q Have you talked to Pietro Ferrari about this case?

A No.

Q Did the complaining witness, your countryman, ever tell you that he was not sure whether he had the right people or not? A No.

Q Did you ever say that to anybody else that you know of?

MR. MANLEY: I object to that unless he mentions names, so that we can meet it.

THE COURT: I will allow it.

A I didn't speak with anybody on that.

BY MR. SCHUMACHER:

Q Now, when you saw your friend being held up, why didn't you call a policeman? A Because I never had such an occurrence before, and I thought I better get away from it.

Q Well, after you left the bank you didn't call a policeman either; did you? A It had nothing to do with me, and why should I call the police?

Q And what time did you leave the bank? A About 6:35 or a quarter to seven, at the utmost.

Q And all these transactions that you have been testifying to happened between 6:15 and 6:35; is that correct? A Yes, sir.

Q Where is your place of business? A No. 179. But I don't know the name of the street.

MR. MANLEY: It is Worcester Street, counselor.

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BY MR. SCHUMACHER:

Q Is it 179 Worcester Street? A Yes, sir, Worcester Street.

Q And you went from there over to Elizabeth Street?

A Yes.

Q And your friend was held up? A Yes.

Q Then you went home? A Yes, sir.

Q Then your friend came after you? A Yes, sir.

Q And then you went to the bank with your friend? A Yes, sir.

Q No. 3 Mulberry Street? A yes, sir.

Q And all that happened within a period of about 20 minutes?

A Yes, sir.

MR. SCHUMACHER: That's all. No, just another question or two.

BY MR. SCHUMACHER:

Q Is it not a matter of fact that these are not the real defendants, but, a mistake having been made, you have made up your mind to stick to it? A These are the three defendants, because I saw them with my own eyes, and they are the ones.

Q Isn't it a fact that you are afraid to change your testimony now, because it would conflict with your testimony given in the Police Court? A No, it is the same thing.

RE DIRECT EXAMINATION BY MR. MANLEY:

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Q After the day upon which this happened, the Tuesday the 12th of December, did you see these three defendants in the City Magistrate's Court a few days after that? A Yes, sir.

Q Upon how many different days do you think you saw the three defendants in the Magistrate's Court? A Twice.

G U I S E P P E T E R M I N I, of Coney Island Avenue, Brooklyn, a witness called on behalf of the People, being duly sworn and examined through the same official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q Mr. Termini, are you a banker at No. 3 Mulberry Street and were you such banker on the 12th of last December? A Yes, sir.

Q And what is the name of your bank? A Guiseppe Termini & Sons.

Q Now, I show you this book (indicating People's Exhibit 1 for Identification), and ask you if, on the 12th of December last, you had a depositor in your bank of the name of Francesco Spinosa? A Yes, sir.

Q Have you any recollection of his drawing any money out of the bank, on the 12th of December last, apart from any

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memorandum that you may have? A Yes, sir.

Q Now, you have in your hands a book, People's Exhibit 1 for Identification. What is that book? A That's a book which I gave to Spinoso when he deposited money in my bank.

Q Did you see him here to-day, and recognize him?  
A Yes, sir.

Q How much did he have deposit in your bank on the 12th of December last? A \$24.

Q Did he draw out any money upon that day? A yes, sir, on the 12th of December.

Q How much did he draw out? A \$24.

Q That is, everything he had in the bank? A Yes, sir. Before he had a little bit more, about \$30, but what he had left that time was \$24, and he drew all.

Q And did he leave the bank book which you now hold in your hand, People's Exhibit 1 for Identification, with you, after he drew out the money? A Yes, sir.

MR. MANLEY: Any objection to the book going in evidence?

MR. SCHUMACHER: No, sir, none whatever.

THE WITNESS: Naturally, after every dollar is gone the book is left with me.

MR. MANLEY: I offer the book in evidence and counsel for the defendants sayshe doesn't object, your Honor.

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THE COURT: Admitted.

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

BY MR. MANLEY:

Q And were the deposits made by Mr. Spinosa of the amounts in your bank upon the dates that are marked in the book? A Yes, sir.

MR. MANLEY: That's all.

CROSS EXAMINATION BY MR. SCHUMACHER:

Q How long have you known this man Francesco Spinosa?

A I know him about five or six months. He started to make deposits in the month of November with me.

Q Did you personally pay him the money that he drew on December 12th? A Yes, personally.

Q Do you remember the denominations of the money in which it was paid? A That I couldn't remember, because it is so much that I pay out, that I can't remember what bills I gave him.

Q Was Mr. Spinosa alone or was anybody with him when he came to draw this money? A He was with a countryman of his.

Q Do you know who this countryman of his is? A Yes, I know him if I see him; I would know him.

Q About what time of day was this that he drew this money? A That also I couldn't tell you, because ---

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Q What time does your bank close in the evening?

A Seven o'clock.

Q Now, you don't remember whether this was in the morning or in the evening that he drew this money; do you?

A That I don't remember either, you know.

Q Did you see what he did with this money after he drew it? A No, sir.

Q How many withdrawals of money did you have at your bank on the 12th day of December, how many withdrawals of different people? A I would have to look at my register.

Q You didn't have to look at your register to tell us how much this man drew on that day; did you? A That I know, what he withdrew, but the others I can't remember.

Q Well, what reason have you for particularly remembering the amount that this man withdrew on that day? A Because I saw the book.

Q And still you don't know what time of day this was that he made this withdrawal? A No, that I can't say.

RE DIRECT EXAMINATION BY MR. MANLEY:

Q Mr. Termini, did you see me in my office some days ago? A Yes, sir.

Q And did I tell you to look up in your book, and ask you if you had an account with Franceco or Guiseppe Spinosa, and if he drew out any money on the 12th of December?

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MR. SCHUMACHER: I object to that as immaterial, irrelevant and incompetent, what he told him to do.

THE COURT: I will allow it.

A Yes.

BY MR. MANLEY:

Q And did I ask you to look up, and see if Mr. Guiseppe Spinoso's bankbook was left with you, and, if it was, to bring it to court? A Yes, sir.

RE CROSS EXAMINATION BY MR. SCHUMACHER:

Q Did you District Attorney ask you to find out what time of day this was that this withdrawal was made? A No.

BY MR. MANLEY:

Q Well, do you put down in your book the very time that a person draws money out of your bank, Mr. Termini? A Oh, no. Then we would have lots to do.

LOUIS F. TRABUCCI, of the Detective Bureau,  
a witness called on behalf of the People, being duly sworn,  
testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q Now, are you a member of the police force of the City of New York, attached to the Detective Bureau? A Yes, sir.

Q And you are an Italian yourself; aren't you? A Yes.

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Q And you understand and talk the Italian language?

A Yes.

Q Now, did you upon Tuesday, the 12th day of December, go to the place of business of the firm of Warschawsky & Cohen on Worcester Street? A I did, yes, on the 13th of December.

Q Is that between Bleeker Street and Houston? A Yes, sir.

Q And when did you get there? A About five minutes before six in the evening.

Q Had you previously talked with anybody over the 'phone in that place before you went there? A I had not.

Q Were you sent there by any superior officer of yours? A Yes.

Q Who was it sent you there? A The lieutenant at the desk.

Q At what desk? A In the 10th Precinct station house.

Q The station house of the 10th Precinct? A Yes, sir.

Q Does that precinct take in the premises of Warschawsky & Cohen on Worcester Street? A Yes, sir.

Q Now, just answer this yes or no. Did you know, had there been a telephonic communication from Warschawsky & Cohen's place of business to the station house? A Yes, sir.

Q Now, when you got around there, whom did you see in that place of business? A I saw a Mr. Cohen.

Q Of the firm? A Yes, sir.

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Q He is a young man? A Yes, sir, he is a son of one of the members of the firm, I presume.

Q Now, answer this yes or no: Did you have a talk with him about this case? A I did.

Q Now, did you see the two witnesses, Sebastiano Pironeo and Francesco Sponisa? A I did.

Q Did you talk with them? A I did.

Q Now, how soon after talking with those people was it that you left that place of business? A In about ten minutes.

Q And do you remember on which side of the street, Worcester Street, it is? A On the west side. It is nearer to Bleecker Street.

Q How many doors from Bleecker? A Well, I should judge about three or four buildings from Bleecker Street.

Q Now, just answer this question yes or no. When you left the place of business of Warschawsky & Cohen at that time, did you have any arrangement with the two witnesses, Pironeo and Spinoso, as to how you three men should walk upon the street? A I did.

Q Now, when you left the place of business of those gentlemen, were you ahead of those witnesses, or behind them? A Behind them.

Q Now, will you state what took place from the time the

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three of you left the place of business of those men? A The complaining witness and the witness started downstairs ahead of me and they got down to the street door, and they, the complaining witness and the witness, crossed from the west side of Worcester Street to the east side of Worcester Street, and I about five or six feet behind them, and they started to walk south on Worcester Street, when the defendants walked down after them, and got around them, and started talking, walking at the same time, walking slowly.

Q Now, how far behind were you at the time that happened?

A Oh, I should judge about five or six feet, possibly more or less.

Q Go ahead and state what happened next? A And so, when they got within about three --- I should judge they walked down about 50 feet, when the complaining witness turned around, and, as he turned around to look towards me, the three defendants turned around. So then I closed up on them, and asked the complaining witness ----

Q Now, just a minute. You say these three defendants engaged in conversation with these two men; is that right?

A Yes, sir.

Q Could you tell which one of the men, whether Pironeo or Spinoso, they were engaged in conversation with, or was it with both of them? A I couldn't say, the three of them were walking down.

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Q And how near were the complainants to the two men, the complaining witness and Spinosa? A Why, the complaining witness and the witness Spinosa were in the middle, and either one or two were on one side of them and one on the other side.

Q And could you hear what was said between them at that time? A No, sir.

Q And you went down and what happened? A As soon as the complaining witness turned around, and the defendants turned around, and saw me, I asked him, "Are these the men?"

Q Now, up to that time had you ever seen these defendants; before this night had you ever seen either of the defendants? A No, sir, not before this night.

Q Were you dressed in uniform or plain clothes?

A Just plain clothes, the same as I am now.

Q Well, what happened next? A And I asked the complaining witness if these were three men, and he said yes, and so I told the three defendants that I was an officer of the law, and at the same time the defendant there, Arcardes, I believe his name is, started to run.

Q The one at the extreme right there (indicating Arcardi)? A Yes, sir.

Q He started to run away? A He started to run away, and I told him, if he would run, I would shoot him, and so I backed them into the hallway there, about two doors from

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Houston Street.

Q Did you put the three of them into the hallway?

A Yes, sir.

Q And where were the two witnesses at the time? A They were standing out on the sidewalk in the crowd that had collected.

Q Did a crowd collect immediately? A Well, yes; a few minutes after I had them in the hallway.

Q Well, that's about the time that these factories are pouring out their workers, to go home; is it not? A Yes, sir, about that time.

Q And what happened then? A Well, I asked some citizen in the crowd there if he would telephone to Police Headquarters and get help, and some one in the crowd did telephone, because the patrol wagon came about ten minutes after. While in the hallway there, the defendant Scollo was making efforts to walk out, every now and then, and, on one occasion, while in the hallway, he opened up a pocketbook, and took what appeared to be some bills and called out to the complaining witness ---

Q What did he say, if you heard him? A He said, "Here, what do you want to do this? Here, take this."

Q Now, how far outside on the street was the complaining witness when Scollo said that from the hallway? A Well, I really couldn't say, because there was a crowd, and I had three

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men to handle, and I couldn't really say where he was in the crowd just then.

Q And how far back in the hallway were the three defendants? A Well, the hallway is about seven or eight foot deep, and of course, I tried to keep them as far back in the hallway as I could.

Q Now, when the defendant Scollo took this money out, do you recall what he said or the substance of it? A He simply said, "What do you want to do this? Here, take this."

Q Well, did he say that in English? A No, sir, in Italian.

Q Well, give us that in English. What did he say? A Well, I'm translating what he said in Italian

Q Well, suppose you put it in Italian first. A (The witness speaks in Italian).

Q Now, you translate that?

THE COURT: Let the interpreter translate it.

THE INTERPRETER: "What do you want to do this?

Here, take this."

BY MR. MANLEY:

Q And at that time he had something in his hand? A Yes, something that he had taken out of his pocketbook.

Q And did you notice anything in his hand at the time that he had the pocketbook in his hand? A I noticed what looked to be money to me, what I believed to be money, but it

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was quite dark there, pitch dark, not a light lit.

Q And what did you say to the defendant at that time?

A They said, "What is this for?" And I said, "You are accused by the complainant of having stopped him on Elizabeth street last night and taking some money from him," and they said, "Why, we never saw him before."

Q Now, who said that, "Why, we never saw him before"?

A Well, now, I can't very well state who said it.

Q Well, was that said in the presence of the other defendants? A Yes; the three of them were right together in the hall at the time.

Q Now, was it said by more than one of the defendants?

A I really couldn't say that. It might have been one, or two or three of them.

Q Now, I suppose they were taken to the police station in the patrol wagon; were they not? A Yes, sir.

Q Now, upon the way to the station house, or at the station house, did the defendant say anything to you about the accusation against them? A In the station house I told them what they were charged with again, and they made the same denial, and denied having ever seen the complaining witness before.

Q Now, were you present in the Police Court proceedings?

A I was.

Q Did either of the defendants testify there before the Police Magistrate? A Yes, sir.

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Q Well, what was the testimony? Which one testified upon the examination? A I think the one on the extreme right (indicating).

Q Well, if you are not positively certain, I won't ask you. A I won't swear to it. I know that one of them testified, but which one I can't now positively recall.

Q Well, was that in the presence of the others? A Yes, sir.

Q Now, did you have any other talks with the defendants before they went to the Police Court about this charge, except what you have told me you recall? A Not that I recall now.

Q Well, what did that one defendant testify to in the Police Court, in the presence of the others? A To the best of my recollection, he testified that he didn't know either one of the other two defendants.

BY THE COURT:

Q Who did that? A One of the men testified in the Police Court proceedings.

Q That is, one of these defendants? A Yes, sir. But which one of them I don't know, I can't remember.

BY MR. MANLEY:

Q Well, do I understand then that only one of the defendants testified in the Police Court examination? A To the best of my recollection I think it was just one.

MR. MANLEY: You may examine.

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## CROSS EXAMINATION BY MR. SCHUMACHER:

Q Now, you say, officer, when you first saw these three defendants they were talking to the complaining witness and his friend; is that so? A No, sir. When I first saw them was just as I left the factory door. They were standing across the street, right opposite the factory, or the premises 179-181 Worcester Steet. They were standing right in front of a public school, which is directly across the street from the factory.

Q What attracted your attention to these three defendants at that time? Was it anything out of the ordinary that they should stand there? A Why, the story that I just heard from the complaining witness and the witness, and seeing these men there.

Q Did they give you any description of these defendants?

A They did at the time, yes.

Q And then you saw the three defendants walk up to the complaining witness and his friend and engage in conversation? A They walked down after them.

Q And caught up to them? A Yes, sir.

Q And engaged in conversation with them? A Walked down with them, walked down slowly, and I presume engaged in some conversation.

Q And you were five or six feet behind them? A About that, more or less.

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Q And you didn't hear a word that passed between them?

A No, I didn't.

Q So when this witness Spinosa says you were about 20 paces behind, why, he was wrong; was he? A Well, I don't know what he means by 20 paces.

Q Well, you know what a pace is; don't you? A Yes, sir.

Q You are instructed in military drill in the Police Department; are you not? A Well, we are, yes.

Q Yes, to a certain extent? A Yes, sir.

Q And you know what a pace is; don't you? That is a pace; is it not (illustrating)? A Yes.

Q And about how many inches is the ordinary pace of a man? A Oh, I don't know; I can't answer that.

Q Well, have you ever been told what the military pace is supposed to be? A No, sir, not to my knowledge.

Q None of your instructors ever told you in the Police Department that it is 26 or 28 inches? A They may have, but it is a long time since I have drilled for any parade or anything like that, and it has slipped my memory.

Q Well, it is more than 20 inches; isn't it, anyway?

A I presume it is.

Q Now, you say that one of these defendants ran away or attempted to run away; which one was that? A That was the defendant Arcardi, I believe his name is (indicating the

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defendant Arcardi).

Q And did you catch him, or did somebody else catch him for you? A I didn't have to catch him. I was prepared for him. I had my revolver in my hand, and I told him I would shoot him if he attempted to run away. I had my revolver in my hand as soon as I went down behind them.

Q Now, you say that one of them took some money out of his pocket in the hallway; is that right? A Yes, sir.

Q Now, was it silver money or paper money? A Oh, it appeared to be paper money to me.

Q Did you notice the denomination? A No, sir, I didn't.

Q Was it a large or small roll? A I couldn't say. It was rather a small one than a large one.

Q Well, did it appear like a single bill or several bills? A I couldn't say. It might have been one or two or three.

Q Now, which one of the defendants was it that handled that money? A The defendant Scollo (indicating).

Q And was he examined in the police station afterwards? A Yes, sir.

Q And how much money was found on him there? A To the best of my recollection he had about seven or eight dollars; I'm not sure which.

Q Now, isn't it a fact that he had only two dollars at the time he was searched in the police station? A He had at least seven dollars.

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Q. You are sure about that? A. Positive, as far as my recollection goes. I didn't make a memorandum of it.

Q. Did you examine him yourself? A. I searched him, yes.

Q. Searched him? A. Yes, sir.

Q. Now, you say at least seven dollars. Do you remember the denomination of the bills that he had? A. I couldn't recall just now, no, sir.

MR. SCHUMACHER: That's all.

RE DIRECT EXAMINATION BY MR. MANLEY:

Q. Where were you going with these two men, Pironeo and Spinoso, when you left the factory? A. I was going to accompany them to their homes.

Q. Is that the only object that you had when you left the factory with the two men, to see that they got to their home safely? A. To see that no harm would befall them in any way.

RE CROSS EXAMINATION BY MR. SCHUMACHER:

Q. Now, officer, you examined the other two defendants; did you not? A. Yes, sir.

Q. Or searched them, I should say? A. Yes, sir.

Q. How much money did you find on the defendant Dieli?  
A. I couldn't answer that. I don't recall.

Q. Do you mean to say that you are not prepared to testify to it, as to how much money you found on him? A. No, sir. I

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didn't think it would have any bearing on the case. It wasn't marked money and for that reason I didn't make a memorandum of it.

Q How much money was found on the defendant Arcardi?

A I really couldn't say.

Q Now, do you mean to tell this Court and jury that you don't remember how much money you found on these two defendants but on the defendant Scollo you know absolutely that you found seven dollars? A Seven or eight dollars, I said.

Q Seven or eight? A Yes, sir.

Q How long would it take you to find out how much money was found on the persons of these other defendants? A I have no way to find out.

Q Is no record kept in the station house when money is taken away from defendants? A It wasn't taken away from them. We only take away a knife or pistol or keys or something of that sort, except where ----

Q Well, you knew that these men were arrested for extorting money, and it might be important to know how much money they had on their persons at the time they were arrested?

A Well, I know that money couldn't be identified, and I knew it wasn't \$24 which they extorted.

Q Well, you were told that these defendants had extorted \$24? A Yes, sir.

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Q A few minutes before you arrested them? A No, sir, oh, no, sir. This was the night after.

Q And you were not interested enough to see how much money they had with them? A Well, he was the only moneyed man, the only one that I recall particularly that had any money. As to the others, they had little or no money at all.

Q Isn't it a fact that Dieli had ten cents in his clothes, and Arcardi a quarter? A I know they had very little, but I can't say the amount, becuse I kept no memorandum of it.

Q And there is no way of refreshing your recollection about it? A No, sir, no way whatsoever.

S A M U E L I. C O H E N, of 56 West 112th Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q Now, Mr. Cohen, what is your business? A Manufacturing brass goods.

Q What is the name of the firm with which you are connected? A Warschawsky & Cohen.

Q Are you the Cohen of that firm or is it your father? A Yes, my father.

Q And where is your place of business? A 179-183 Worcester street.

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Q Are you acquainted with the two men, Sebastiano Pironeo and Francesco Spinosa? A Yes, sir.

Q Did they work for your father's firm before the 12th of December? A Yes, sir.

Q Now, upon the night of the arrest of these three defendants, that is, the 13th of December last, a Wednesday, did you see them on the street at the time they were arrested? A Yes, sir.

Q Did you see the three defendants before they were taken away, the night of the arrest, in the patrol wagon? A Yes, sir.

Q Did you afterwards see them at any time in the Police Court, at the time of the various Police Court examinations? A I saw them when they were going down to the court in the patrol wagon.

Q Well, I know. Was that on the day --- on a different day from the time of the arrest? A The next day.

Q On the following day? A Yes, sir.

Q Now, where was the patrol wagon when you saw it?

A It was in Worcester Street, between Bleecker Street and Prince Street.

Q So that you saw them once after the time of the arrest? A Yes, sir.

Q Now, did you ever see these three defendants or either of them before the day upon which they were arrested? A Yes,

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sir.

Q Now, where and when? A I saw them the day before they were arrested, in front of our business, in front of 179 Worcester Street.

Q That was the day before the arrest? A Yes, sir, the day before the arrest.

Q When was it? A About ten minutes to six in the afternoon.

Q Now, where were when you saw them? A I was out on business, and I was coming back to the office.

Q To your own place of business? A Yes, sir.

Q Now, where were they when you saw them? A They walked over from the other side of the street.

Q What street? A The other side of Worcester Street. They were on the other side, in front of the school, and they came over and looked at our building.

Q Do you identify these three men, these three defendants, as the ones who did that? A Yes, sir.

Q Were there only three of them or more than three?

A There was one or two more, two more.

Q Well, would you say that there were five altogether?

A Yes. Well, I don't know exactly whether there were five, but there were more than three.

Q Now, did you hear any one of those three men --- question withdrawn. Can you state that you heard any one of these three

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defendants say anything, or did you hear any of the others, if there were four or five, state anything in the presence of these defendants? A One of them had his hands in his pockets (illustrating), and pointing that this is the place with his hand, that way (illustrating). Then they went over on the other side of the street in front of the school.

Q Was it said in English? A No, sir, in Italian.

Q Well, did you understand it? A Well, no, sir; I couldn't say that I understood what was said, but I saw him point his hand that way.

MR. SCHUMACHER: Then I move to strike that out.

THE COURT: Motion granted.

BY MR. MANLEY:

Q And he went with his right hand in his overcoat pocket like that (illustrating), and pointed to the building?

A Yes, sir.

Q And were they looking at the building? A Yes, sir.

Q And the next time you saw them was at the time of the arrest, which was 24 hours afterwards? A Yes, sir.

CROSS EXAMINATION BY MR. SCHUMACHER:

Q Now, Mr. Cohen, you say that you are sure that these are three of the persons that you saw in front of your place of business, the day before the arrest? A Yes, sir.

Q About five or six o'clock? A Yes, sir.

Q Did you count the party? A No, sir.

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Q Would you be able to identify the others, if you saw them? A If I saw them again, I would know them, I think, two of them. That one, with the mustache (indicating Scollo), I identify.

Q Did he have an overcoat on? A Yes, sir.

Q He had his hand in his overcoat pocket? A Yes, sir.

Q And you didn't understand what he said when he made that motion? A No, sir.

Q And then they went across the street in front of the school? A Yes, sir.

Q And when did you see them again? A The next night when they were arrested.

Q At the time that they were arrested? A No. They sent for me, when the detective got them, and he had them over on the corner. One of the boys came over and told me that they were arrested, and I went down there and saw them there.

Q Are you the one that the detective spoke to in your place? A Yes, sir.

RE DIRECT EXAMINATION BY MR. MANLEY:

Q Now, did you have --- question withdrawn. Now, did you telephone to any police station, that day, about the case? Now, just yes or no? A Yes, sir.

Q Now, did you have a reason for telephoning to the police station? You can't tell the jury what it is or was, but you

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can say whether you had a reason or not? A Yes, I had a reason. They told me what had happened.

Q No, no. (Question repeated) I had no reason except what happened there; that's all.

MR. SCHUMACHER: I object to that answer. Yes or no is the proper answer.

THE COURT: Objection sustained.

BY MR. MANLEY:

Q Well, did you have a purpose in your mind when you telephoned to the police station? A Yes, certainly.

MR. MANLEY: The People rest.

MR. SCHUMACHER: Now, I move to dismiss the indictment, and to discharge the defendants, on the ground that the People have failed to establish by sufficient evidence any guilt of these defendants, or a sufficient amount to hold them on the charge made against them; and that it doesn't appear anywhere, by any of the testimony on the part of the People, that this particular money, or any money, was seen passed to either one of these defendants; and that it doesn't appear anywhere in the testimony of the People that any money, either marked or unmarked, aggregating the sum alleged in the indictment was found upon them; and upon the further ground that the testimony of the complaining witness himself is contrary to his sworn

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affidavit, made before Magistrate O'Connor in the  
Magistrate's Court.

THE COURT: Motion denied.

MR. SCHUMACHER: Exception.

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## THE DEFENSE.

G U I S E P P E S C O L L O, one of the defendants, being duly sworn and examined through the same Official Interpreter, testified as follows:

## DIRECT EXAMINATION BY MR. SCHUMACHER:

Q Mr. Scollo, what is your business? A I am a laborer.

Q Now, were you employed during the month of December, 1911? A No, I worked up to the 3rd of December.

Q Where did you work? A At 90 Elizabeth Street, a baker.

Q How long did you work there? A Three months.

Q Where did you work prior to that time? A Metropolitan Traction Co., as a laborer.

Q As a laborer with the Metropolitan Traction Co.? A Yes, sir.

Q Have you ever seen the complaining witness, Sebastiano Pironeo? A No, sir.

Q That is, outside of having seen him in the Police Court, or here in this court? A Yes, that's all; in the first court and then in this court here.

Q That's the only time that you have seen him? A That's the first time I saw him, in court.

Q Did you see him on the 12th day of December, 1911?

A No, sir.

Q Do you know the defendant Dieli? A No, sir.

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Q When was the first time you saw him? A When they placed him under arrest.

Q Do you know the defendant Arcardi? A No, sir.

Q When was the first time you saw him? A On the 13th of December.

Q Did you see the witness Sebastiano Pironeo, on the 12th day of December, 1911? A No, sir.

Q Did you see either of these two defendants on that day? A No, sir.

Q Did you see the witness Spinosa who was on the stand on the 12th day of December, 1911? A No, sir.

Q Do you know the witness Spinosa? A No.

Q Now, where were you on the 12th day of December, 1911?  
A I was walking.

Q Working or walking? A Walking.

Q Now, where were you walking, and at what time? A First I took a walk at Catherine Street, a promenade. Then I retired to my own house, at half past three in the afternoon. I retired in my own house because I didn't feel well. I had a cold.

Q Now, how long did you stay at your own house? A Until about half past ten I was indoors. Then I didn't go out any more.

Q Do you know a woman by the name of Rosa Rogea? A Yes.

Q Now, did you see Rosa Rogea on that day? A Yes, sir.

Q Where does Rosa Rogea live? A Cherry Street.

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Q Well, where did you see her? A I saw her coming in my house.

Q About what time? A About six o'clock.

Q And how long did she stay there? A Up till ten o'clock.

Q Was she alone or was anybody with her? A Her husband and her two children.

Q Do you know Carmelo Garafolo? A Yes, sir.

MR. MANLEY: May I interrupt, to ask whether all the witnesses have been excluded?

MR. SCHUMACHER: I think so, yes.

MR. MANLEY: Very well.

BY MR. SCHUMACHER:

Q Where did you see him on the 12th day of December, 1911, if you saw him at all on that day? A He came in my house, and he said, "As soon as it will be a snowstorm, I will fetch you to work in the snow."

Q About what time was it he came there? A About six or half past six.

Q How long did he stay? A About two hours.

Q How much money was found on you when you were searched?

A Two dollars.

Q Now, Mr. Scollo, you are charged here by the complainant with having taken \$24 from him by force or fear; is that true? A No, sir, it isn't.

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Q Have you ever been convicted of any crime before?

A No, sir, never.

Q Have you ever been arrested before for any reason?

A No, sir, never.

Q How old are you? A 33 years old.

Q Married? A No, sir.

CROSS EXAMINATION BY MR. MANLEY:

Q Where did you live upon the 12th day of last December?

A 23 Monroe Street.

Q How long had you lived there? A About a year,

Q Who did live with at that time there? A My brothers, my sisters and my brother-in-law.

Q What is the name of your brothers? A Sebastiano is one, and another one Pietro, and another one Mario, and two sisters.

Q Well, did all those people live there together?

A Yes, sir.

Q Is your brother married? A Yes, one is married.

Q Are your two sisters, or either of them, married?

A One is married.

Q And does she live there with her husband and family?

A Yes, sir.

Q So that how many people live there in your house, in your apartment? A Eight.

Q How many rooms? A Five --- four.

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Q Four rooms? A Four.

Q Now, you say that you haven't worked since the 3rd of December; is that so? A Yes, sir.

Q Well, then, you hadn't worked for about nine or ten days before the day of your arrest? A That's right.

Q Now, upon the day that you were arrested, the 13th of December, had you been working? A No, sir.

Q Well, you didn't have anything in particular to do upon that day, except to walk around; had you? A No.

Q Now, you were arrested up there on Worcester Street; weren't you? A I don't know the name.

Q Well, was it up near Bleecker and Houston Streets?  
A It was a street coming from Sixth Avenue.

Q How long have you been in the City of New York?  
A Five years.

Q You have been in America then five years? A Yes, sir.

Q And lived in New York all that time? A I have been in New York and Brooklyn. I always lived in New York, but I have worked in Brooklyn and other villages.

Q Now, where is the place of business of the baker for whom you say you worked? A No. 90 Elizabeth Street.

Q And you worked for him, you say, how long? A Three months.

Q And do you know where the Bowery is, the street that

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they call the Bowery? A Yes, sir.

Q Well, now, Elizabeth Street is how many blocks from the Bowery where you worked for this baker? A One block.

Q Well, now, near what street is the baker's, upon Elizabeth Street? A Elizabeth and Grand Streets.

Q Well, now, at the place where you were arrested --- you were arrested right near a school house; weren't you?

A It was night. I don't know.

Q About what time was it you were arrested? A About a quarter past six or half past six.

Q Were you alone at the time? A I was alone.

Q Nobody with you at all; was there? A The policeman grabbed me with his hand and I was alone.

Q At the time you were arrested, had you been alone for some time on the street? A I was walking at the time. While I was walking, a policeman caught hold of me by my coat (illustrating), and just placed me under arrest.

Q Were you walking alone at the time? A Yes.

Q And you had been alone for some time; had you? A Yes, sir, I was alone.

Q Now, in what direction were you walking, and where were you going, when you were arrested? A I was coming from Sixth Avenue, from 493.

Q 493 Sixth Avenue is between what streets? A 493 Sixth Avenue.

Q Yes, but between what streets is that? A I don't

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know whether it is Spring or not. I don't know the names of the streets.

Q But you are sure it is 493 Sixth Avenue; are you?

A 493 is a stable there, that is where the stables are, where the carts are.

Q Well, are you sure the number is 493? A Yes, I'm sure of it.

Q And you are sure it is on Sixth Avenue? A Yes, in Sixth Avenue.

Q Had you been up there to the stable? A Yes, sir.

Q And you were walking home at the time; were you? A I went there to talk to a friend of mine, to give me a job.

Q Did you see the friend there? A Yes, sir.

Q What is his name? A Guiseppe Tripodo.

Q And you say you went to see Tripodo, there, and saw him? A Yes, sir.

Q And about what time was it that you saw Tripodo there?

A About half past five.

Q That is, did you get there at half past five or leave there at half past five; which? A I arrived there at half past five.

Q What time did you start away? A About ten minutes to six, or a quarter to six.

Q And you started to go home alone, by yourself; is that it? A Yes, sir.

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Q Now, when you got down to the street where you were arrested, did you stand in the street for a little while?

A No, sir, I walked.

Q So you didn't stop on that block at all? A No.

Q You walked all the way from the time you left the stable up to the time when you were arrested; did you? A Yes, sir.

Q And were you arrested before these two men, Dieli and Arcardi (indicating)? A No, sir.

Q They were arrested first? A They were arrested first, and when I passed, I was arrested at the same instant.

Q Well, now, which was arrested first, Dieli or Arcardi?

A Both together.

Q Did you see them when they were arrested both together?

A No.

Q Did you see somebody grab those two men right in front of you, as you were walking along the street? A No.

Q Were they arrested behind you? A No.

Q Were they arrested in front of you? A In front of me, as I was walking.

Q You were walking right along then, and the first thing you see, then, is that two strange men, whom you had never seen before, are arrested right before you, right in front of you; is that it? A I saw a crowd in front of me.

Q How big a crowd was it in front of you that attracted

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your attention? A Seven or eight persons.

Q Were they all together, close together? A Altogether.

Q How far were you from that crowd of six or seven persons who were close together, before you noticed it?

A About ten paces.

Q Well, you were about ten paces and that, as I understand it, would be about 30 feet. And do you say to the jury that you were that distance from this crowd before you noticed it? A Yes, sir.

Q Now, the first thing that attracted your attention --- and I want you to understand me perfectly --- then the first thing is that you see, when you are walking down the street, you see, 30 feet ahead of you, a crowd of six or seven people, standing close together; is that it? A Yes, sir.

else

Q You didn't see anybody rush up to grab anybody else, then, but only saw a crowd standing close together? A Only the crowd, and I stopped.

Q Did you stop right near the crowd? A Yes, sir, right near the crowd, and then I was placed under arrest.

Q Now, I suppose that at the time you stopped there, other people stopped? They were coming up all the time; weren't they?

A Yes.

Q You stopped, of course, to see what was the matter; didn't you? A Yes, I stopped to see what was the matter.

Q You didn't know at that time what was the matter; did

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you? A No, I didn't.

Q Did you ask anybody what the matter was? A No, I didn't.

Q Did you see anybody inside the crowd, or in the crowd, who had hold of anybody else? A No. When I reached there, I was seized, too, by the police.

Q Now, as soon as you got there did somebody grab you? A Immediately.

Q Well, were you walking, still walking, when you were grabbed or had you stopped, and were you looking at the crowd, before somebody grabbed you? A I was standing looking at this crowd.

Q How long do you think you had been standing looking at the crowd before you were grabbed? A About a minute.

Q Now, at that time, did you see the defendant Dieli, Vincenzo Dieli? A Yes, sir.

Q And did you at that time see Guiseppe Arcardi (indicating the defendant Arcardi)? A Yes.

Q Somebody had hold of them; didn't they? A There was a policeman there.

Q Now, you, of course, didn't have any idea why you were arrested; did you? A No, sir.

Q You had never seen these two men, Dieli and Arcardi, before, in your life; had you? A No, sir.

Q And you hadn't been standing on the street, near a

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schoolhouse at all; had you? A No, sir.

Q You were not watching this place of Warschawsky & Cohen; were you? A No, sir.

Q And you didn't see two men, of the name of Pironeo and Spinosa, come out of their place of business; did you? A No, sir.

Q And you didn't go up to either Mr. Pironeo or Mr. Spinosa and say anything to them? A No, sir.

Q Did you see anybody running away? A No.

Q At the time when the person grabbed you, what did that person say to you? A I stood still. I looked like a fool. I didn't know what was the matter.

Q I say, what did the person say who grabbed you? I didn't ask you what you said. A The policeman told me, "You are under arrest."

Q Did you hear either Pironeo or Spinosa say anything at the time the policeman got you? A No.

Q What, didn't you hear one of those men, that is, Mr. Pironeo say, when the officer said, "Are these the three men?", didn't you hear Pironeo say, "Yes, these are the three that I saw, last night"? A No, I did not.

Q Nothing was said at all, then, but the policeman came right over and placed you under arrest? A That's all.

Q Nobody pointed you out to anybody else, when you were arrested? A Nobody.

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Q How many people do you think were standing in that crowd at the time the officer arrested you? A It was increasing all the time, girls coming out of the factories, and others. I couldn't count them.

Q Well, can't you give us any idea, roughly --- I don't expect you to be accurate --- as to the number of people that were there when you were arrested? A About 20.

Q And the man who arrested you, did he have to work his way between the crowd to get up to where you were (illustrating)? A Yes; the policeman took me to the station house.

Q Well, did he have to make somebody else stand aside to see where you were? A No, he simply told us to wait there, and we waited there, and they telephoned to the station house for the wagon, and took us to the station house.

Q Did the police officer put you into a hallway? A Inside a door.

Q Now, I don't suppose you knew that, when the policeman put you inside of that door, in that hallway, you didn't know, I suppose, what the charge was against you, and who the complainant was against you; did you? A No, sir.

Q And so that, up to the time that you were put into that door, you had not seen, so far as you know, Sebastiano Pironeo, at all; had you? A I saw him at the station house.

Q We are now --- you are now in the hallway --- we will get to the station house in a minute. I say that, at the time

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you were there in the hallway, when the officer had put you in the hallway, you hadn't, up to that time, seen the complaining witness, Pironeo; had you? A No.

Q Therefore, you didn't know who was the complainant against you; did you? A No, sir.

Q And you didn't know what the charge was against you? A No, sir.

Q And you had not, up to that time, seen Francesco Spinosa? A No, not until we got to the station house.

Q Now, did you take out your pocketbook, and take something out of the pocketbook, and yell out to somebody standing on the street, "What's the matter? Here, take this"? A No, sir.

Q That didn't take place at all? A No, sir.

Q Had you been around that same place where you were arrested, the night before you were arrested with two or three other men, including these two defendants? A No, sir.

Q And, of course, you hadn't seen Spinosa or Pironeo or anybody else, on the street, the night before, on Elizabeth Street or on any other street, and asked for money; had you? A No, sir.

Q When was the first time that you heard of the charge against you, and knew what it was? A When we reached the station house. I knew it in the station house.

Q And that was about what time? A About half past six.

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Q And when you got to the station house, did you see the complaining witness, Pironeo? A Yes, sir.

Q And did you see Spinoso? A Yes, sir.

Q And you heard Pironeo state that you were one of the men that had gotten his \$24, the night before; didn't you?  
A Yes.

Q And you heard the witness Spinoso say the same thing; didn't you? A Yes, Spinoso said it to the police.

Q And did you hear Pironeo say it to the police?  
A Spinoso said it.

Q (Question repeated ) A Yes, sir.

Q And you heard them say that in the Police Court afterwards; didn't you? A Yes, sir.

Q Now, did you ever, at any time, have any trouble with Mr. Pironeo? A Never, no.

Q Do you know of any reason why he should testify against you? A Maybe he is mistaken.

Q And that's the only reason you can think of; is it?  
A He has not only made a mistake but he is insane.

Q Now, did you ever have any trouble with Spinoso?  
A Never. I have never known him in my life.

Q Now, on the night before the arrest, which is the 12th of December, you say that you were out walking on Catherine Street, on that day, on Tuesday; is that right? A Yes.

Q By the way, what time did you get up that Tuesday,



Q And when you got to the station house, did you see the complaining witness, Pironeo? A Yes, sir.

Q And did you see Spinoso? A Yes, sir.

Q And you heard Pironeo state that you were one of the men that had gotten his \$24, the night before; didn't you?  
A Yes.

Q And you heard the witness Spinoso say the same thing; didn't you? A Yes, Spinoso said it to the police.

Q And did you hear Pironeo say it to the police?  
A Spinoso said it.

Q (Question repeated ) A Yes, sir.

Q And you heard them say that in the Police Court afterwards; didn't you? A Yes, sir.

Q Now, did you ever, at any time, have any trouble with Mr. Pironeo? A Never, no.

Q Do you know of any reason why he should testify against you? A Maybe he is mistaken.

Q And that's the only reason you can think of; is it?  
A He has not only made a mistake but he is insane.

Q Now, did you ever have any trouble with Spinoso?  
A Never. I have never known him in my life.

Q Now, on the night before the arrest, which is the 12th of December, you say that you were out walking on Catherine Street, on that day, on Tuesday; is that right? A Yes.

Q By the way, what time did you get up that Tuesday,

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the 12th of December? A About eight o'clock.

Q Can you remember--- A About eight o'clock.

Q Then, can you remember that, on that Tuesday, the 12th of December, you got up about eight o'clock? A Yes, sir.

Q And you had your breakfast at what time? A At noon.

Q What did you do during the forenoon? A I walked to Catherine Street, promenaded.

Q All the forenoon were you walking on Catherine Street?

A Then I went to market, and then I went home to eat.

Q Whereabouts did you go to market in the forenoon?

A I went to market in Monroe Street.

Q Whereabouts in Monroe Street did you go to market, that forenoon? A 25 Monroe Street.

Q And you got home from market at what time? A About eleven or a quarter past eleven.

Q Did you stay in the house until three-thirty? A After I had something to eat, I went out again.

Q And what time did you get back to your house? A Half past three.

Q And you say that you stayed there from half past three until ten o'clock; is that so? A I didn't go out any more that night. From half past three o'clock, when I went in the house, I didn't go out any more. I had a cold.

Q You stayed in your own apartment, where your brothers and sisters lived with you? A No, they were working, some were working and some were not.

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Q Well, at any time between three thirty in the afternoon and ten thirty in the evening, were any of those relatives that you spoke of in that apartment? A After half past three o'clock?

Q Yes. A Up until five o'clock there was nobody there. After five o'clock there was.

Q Well, who was there after five o'clock of your relatives? A My brother-in-law and my brother, and then, after six o'clock, my sisters.

Q Well, now, your brother-in-law and brother, were they there all the time from five o'clock until ten o'clock?

A Yes, sir.

Q And was your sister there all the time after six o'clock? A Yes, all night.

Q One sister or two sisters? A Two sisters; one married and one single.

Q Now, you say that this lady, Rosa Rogea, came to your house at six o'clock that night; is that true? A Yes, sir, at six o'clock.

Q And she was there until ten o'clock? A Certainly. They stayed there all night, because they live there, They didn't stay there until ten. They stayed there all night because they live there.

Q Well, I understood you to say to your counsel that they

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stayed there until ten o'clock and then they went away, because they lived on Cherry Street? A No, I didn't say that to my lawyer.

Q Didn't you state that you saw in your house a woman named Rosa Rogea; didn't you state that to your lawyer?

A She isn't my sister, she is a friend of mine.

Q I'm not asking who she is. I say, did you state to your lawyer that a woman named Rosa Rogea was there in the house on that night? A Yes, she came there at half past six.

Q Well, did you say that she lived on Cherry street?

A Yes, she is in Cherry Street.

Q Well, then, did she stay there at your house until ten o'clock? A Yes, sir.

Q With her husband and two children? A Yes, sir.

Q Now, does she come to your house every evening?

A Yes, sir.

Q Now, she was coming there at least two or three times a week; wasn't she? A Yes, sir.

Q When was the last time she was in your house before that Tuesday night? A I don't remember that.

Q Was she there on Monday night? A Yes.

Q Was she there on the preceding Sunday night? A No, sir.

Q Was she there on Saturday night? A No, sir.

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Q Well, when was the last time before Monday night that she was there? A I don't remember.

Q Well, give me your best idea. How many times had she been there during the two weeks before the 12th of December? A Two or three times a week.

Q Well, she was coming there right along, two or three times a week; was she? A Yes, sir.

Q Now, you say that a man named Carmelo Garafolo was also there on Tuesday night? A Yes, sir.

Q And he came there at six o'clock? A Yes, sir.

Q And stayed there for two hours? A Yes, sir.

Q Where does he live? A In Cherry Street.

Q What number? A I don't remember.

Q The same place where Mrs. Rosa Rogea lives? A No.

Q He used to come very often to your house? A No.

Q Are you familiar with Elizabeth Street in the neighborhood of Prince and Houston Streets? A I only know Elizabeth Street.

Q Now, you have spent a great deal of time during the last year on Elizabeth Street; haven't you? A No.

Q Haven't you spent a good deal of time on Elizabeth Street, near Houston, for the last few months? A Three years ago I used to spend a lot of time there.

Q And you know that there are a good many saloons on Elizabeth Street, between Prince and Houston Street; don't you?

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A I don't know. I go in and drink wherever I choose.

Q Haven't you been in the habit of spending a good deal of your time at 234 Elizabeth Street, which is near Spring Street? A No.

Q That is the saloon of Mr. Seracino; isn't it? A No, sir, I don't know.

Q Well, you know Seracino; don't you? A Who is this Seracino?

Q Do you know him? A No, sir, I don't.

Q You spent also a good deal of time at 244 Elizabeth Street, which is a saloon; didn't you? A No.

Q And you spent some time at 265 Elizabeth Street, the saloon of Lugia Bros.; didn't you? A No, sir.

MR. MANLEY: That's all.

THE COURT: Step down.

MR. SCHUMACHER: Just one moment, if your Honor please.

RE DIRECT EXAMINATION BY MR. SCHUMACHER:

Q You stated to the District Attorney that the complaining witness Pironeo is insane. How do you know that?

MR. MANLEY: Oh, I object to that as incompetent.

MR. SCHUMACHER: You brought it out.

THE COURT: I will allow it.

MR. MANLEY: Oh, no, I didn't bring out anything.

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May we have the question and answer read on that subject?

THE COURT: No, not now. It isn't necessary.

MR. MANLEY: I asked him if he knew any reason why the complaining witness should testify against him, and he said that he knew of no reason, except that he was insane; and, if there is any question of the insanity of the complaining witness, it strikes me we had better have some testimony on the subject.

THE COURT: I will allow the question.

A Inasmuch as I don't know the man, and he never saw me before, certainly I have to think that no one but an insane person would act that way.

BY MR. SCHUMACHER:

Q Is there any reason why he should act this way? A I couldn't tell you. If I had known him before, it would have been different.

MR. SCHUMACHER: That is all.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case to to-morrow morning, at half past ten o'clock).

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## TRIAL RESUMED.

New York, February 27th, 1912.

R O S A R U G I E R O, of 140 Cherry Street, a witness called on behalf of the Defense, being duly sworn and examined through the same Official Interpreter, testified as follows:

## DIRECT EXAMINATION BY MR. SCHUMACHER:

Q Mrs. Rugiero, are you married? A Yes, sir.

Q Any children? A Two.

Q Do you know the defendant Scollo? A Yes, sir.

Q How long have you known him? A Six or seven months or a year.

Q Do you know where he lives? A Monroe Street. I don't know the number.

Q Now, did you ever visit him there, with your husband and children? A Yes, often. Twice a week.

Q Did you see him on the 12th day of December, 1911?

A Yes, sir.

Q Did you go there alone? A No, with my husband and the children.

Q About what time of day was this that you called there?

A Five o'clock in the afternoon.

Q And was Scollo home at that time? A He was home. He

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had a cold and he didn't feel well. He was lying down.

Q How late did you stay there, that evening? A We went away about half past nine or ten o'clock.

Q Had Scollo gone out during the entire time that you were there? A No.

Q He was there during the entire time that you were there? A Yes, he was there.

Q Now, who else was there? Did you see anybody else there at that time? A One other man was there.

Q Do you know his name? A I know him by sight. I don't know his name.

MR. SCHUMACHER: Will you bring in Carmelo Garafolo, please?

BY MR. SCHUMACHER:

Q Is that the man that you saw there that night (indicating)? A Yes, sir.

Q Well, was he there when you got there or did he come there afterwards? A He came after.

Q And was he still there when you left? A No, he went out first.

Q About what time was it when he got there?

MR. MANLEY: You had better indicate on the record the name of the witness.

MR. SCHUMACHER: Yes. The man pointed to by the witness is Carmelo Garafolo.

A Six o'clock.

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BY MR. SCHUMACHER:

Q And he left before you did? A Yes, sir.

Q Now, were there any members of Mr. Scollo's family present that evening? A The whole family was there.

Q Now, tell us who was there? A Brothers, sisters, sister-in-law.

Q Were his two sisters there? A Yes; a single one and a married one.

Q Well, how many single sisters has he? A One.

Q One single sister? A Yes, sir.

Q How many married sister? A One sister married and one brother married.

Q And they were there at that time? A Yes, sir.

Q Now, how do you fix that day so firmly in your mind?

A It was a holiday and it was the holiday of St. Lucia, and that's the reason I remember it.

Q And the day of St. Lucia is an Italian holiday; isn't it? A Yes, sir.

Q What day is that of the month? A 12th of December.

Q And it continues over to the 13th? A We don't celebrate the 13th; we celebrate the eve, on the 12th.

Q And you went there for the purpose of celebrating this holiday? A Yes, sir.

CROSS EXAMINATION BY MR. MANLEY:

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Q How long have you known the defendant Guiseppe Scollo?

A I can't remember the exact date of the friendship between me and anybody else. I know it is about six months or a year that I know him.

Q And you haven't known him longer than six months or a year? A Six months, eight months or a year. I couldn't remember any longer.

Q Have you known any member of his family for any time longer than that? A It was the same length of time for all the family.

Q How long have you been in this country? A Four years and a half.

Q You come from the same town or the same province as the defendant Scollo and his family? A We are Sicilians, but I don't know whether we come from the same province.

Q What province do you come from? A The province of Cattagna.

Q What town? A Militello.

Q Now, didn't you ever ask or find out whether any of the defendant Scollo's family, who, you say, are all Italians, came from the same province or not? A No, I didn't. I don't know whether they are from the same province even now.

Q Didn't you ever find out in any of these visits that you had with them whether they came from the same town or province that you did? A If we are all from one country, of

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Sicily, we don't make inquiries what province we belong to, as long as we are from Sicily.

Q Do you pretend to say then that it is customary for a person coming from Sicily not even to inquire even from what province another person comes? A It is quite sufficient to visit a place, to meet each other, to be friendly and to enjoy yourself, and to know that you belong to Sicily, without inquiring to what province you belong.

Q Now, Sicily isn't a very large place; is it? A It is indifferent to me whether it is large or small, but I do think that Scollo is from the same province that I am.

Q Now, don't you know it? A I'm not sure, but I think he is.

Q What makes you think he is? A Because the little towns are near each other.

Q Well, now, what little towns are near each other?

A My little town is called Militello.

Q Now, what is his little town called? A (No answer)

Q Well, how many miles is it from Militello? A I am not a measurer of towns. I couldn't tell you the distance.

Q Well, of course, I knew very well that you were not a measurer of towns, but can't you tell me how many miles they are apart? A To avoid any further questioning, I want to tell you that I can't read or write. He is from the town of Licozio.

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Q Now, how far is Licodio from Militello? A I don't know what the distance is, but I know you can go with a cart over there.

Q Now, you say that you have been going to the house of Scollo and his relatives twice a week for about how long?

A From the time we have had the friendship together.

Q Well, that's about eight months; isn't it? A About eight months or a year.

Q And about twice a week you have gone there? A Yes, sir, always.

Q Now, how many days was it after the 12th day of December that you heard that Scollo had been arrested? A About a week after, a few days after.

Q Well, is it your best judgment that it was about a week afterwards? A After a week I heard somebody saying, "Our friend Scollo has been arrested." Why, I didn't know.

Q Well, did you go round to his house when you heard of it, a week afterwards? A Yes, sir.

Q You saw some of his relatives there; didn't you? A Yes, sir.

Q Now, how many days do you think it was after his arrest, after the arrest of Scollo, that you went around to his house and talked to his relatives? A Immediately I heard of his arrest I went there to visit.

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Q Well, then, you remembered that, upon that day that he was arrested, that you went there about five o'clock in the afternoon; did you? A Yes, I remembered it was a holiday that day.

Q Well, now, what is that holiday of St. Lucia? Is that your patron saint or what is it? A St. Lucia is the patron of the whole of Sicily.

Q And is the 12th of December the holiday? A Yes, sir.

Q And that's the way that you can remember about being at his house on this night; is it? A Yes, sir.

Q And you got there about five o'clock; did you? A Yes, sir.

Q And who was with you, who went there with you? A My husband and my children.

Q Well, now, everybody, of course, that being a holiday, was in the house when you got there; is that so? A Yes, sir.

Q The brother of Scollo was there; wasn't he? A All of them were there.

Q Now, Scollo's brother wasn't working that day, since it was a holiday; was he? A No, nobody worked, that day. It is a holiday.

Q Well, Scollo's brother wasn't working. He was in the house that day; is that right? A Yes, he was there; he wasn't working.

Q Now, did Scollo have one brother or two brothers there?

A He has three brothers.

Q And were they all three there, when you got there at five o'clock? A Yes, sir, all three were there, because it was a holiday.

Q And the other two brothers were not working either; were they? A No.

Q Now, howmany sisters did Scollo have there in the house, when you got there at five o'clock? A Two.

Q And you say that one is married; is that so? A Yes, sir.

Q And herhusband was there, too? A Yes, sir.

Q Now, you stayed there until ten o'clock; did you? A Yes, sir.

Q Didn't you go out of the house at any time during that time? A No.

Q And the defendant Scollo didn't go out at all; did he? A Yes, he was lying down.

Q Did he stay there all the time in the house? A Yes, sir.

Q Did you eat there, that night? A Yes, we ate a little bit there, some nuts and fruit.

Q When did you have your last meal before you went there? A In my own house.

Q When? A About three o'clock.

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Q And then you stayed there until ten o'clock, you say, and all that you had to eat was some nuts in Scollo's house, you say? A I ate at three o'clock in my house, and over there we had some almonds, nuts and beer.

Q Now, you say that Garafolo came in at six o'clock?

A Yes, sir.

Q And when did he go? A About nine o'clock.

Q Who else was there besides those we have talked about?

A All his parents.

Q His parents? A Yes, sir.

Q Did you see the parents of Scollo, the father and mother? A No, he has no father, and his mother is in Italy.

THE INTERPRETER: In Italian, "parents" means brothers and sisters and all that. They call it "parenti".

BY MR. MANLEY:

Q Well, who else was there, besides those whose names you have already given? A Guiseppe Scollo, Sebastiano Scollo, Salvatore Scollo, Margarita Scollo, Meta Scollo, Carmelo Garafolo --- I can't remember every name. I gave you some.

Q Well, let's see about Carmelo Garafolo. Does he come from Cattagna, too? A I don't know.

Q Is he a Sicilian? A I think he is.

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Q Well, is he or isn't he? A I don't know whether he is a Sicilian. I saw him there.

Q Well, doesn't he come from Militello? A I don't know. I saw him the first time in Scollo's house.

Q Now, can you mention anybody else who was there?

A That's all. All his relatives were there.

Q How often does that holiday come around; how many times does the holiday come around? A Once a year.

Q And it is always on the 12th of December? A Yes, sir.

Q Now, isn't it on the 13th? A No, the 12th is the eve of the feast, and that is the only time we celebrate. On the 13th it isn't counted.

Q Well, doesn't the holiday extend for 24 hours?

A We celebrate the eve, on the 12th, and the next day we go to work.

Q What time on the eve of the holiday, the 12th, does the celebration of the holiday begin? A All day long on the 12th.

Q That is, if the eve starts on the 12th, the holiday begins on the day of the 12th; does it? A We always celebrate the holiday on the eve, on the 12th.

Q Well, can't a man work on the 12th, before the eve begins? A Everyone isn't compelled. If he doesn't care to celebrate the feast, he can go to work.

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Q But you say that all these men were in the house when you got there? A That shows that they were celebrating the feast.

Q What time does the eve begin on the 12th? A On the morning of the 12th; from the morning of the 12th.

Q The eve of the 12th, then, begins in the morning; is that it? A Yes, sir.

Q What time in the morning does the eve begin? A Immediately the bell tolls on the church, in the morning, the feast begins.

Q Well, what I am getting at is, when the bell begins to toll at what hour of the day is it? A The first mass begins at six o'clock, in the church, and that is the time we begin to celebrate.

Q And that is on the morning of the 12th; is it?

A Yes, sir.

Q And it doesn't extend over into the 13th at all; does it? A It doesn't count; only the eve counts.

Q Well, why do you call it the eve, if the bell begins to toll at six o'clock on the morning of the 12th? A That's the way we call it, and that is our style.

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C A R M E L O G A R A F O L O, of 132 Cherry Street, a witness called on behalf of the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SCHUMACHER:

Q Do you know the defendant Scollo here (indicating)?

A Yes, sir.

Q How long have you known him? A Two years.

Q Where does he live? A 23 Monroe Street.

Q Did you see him on the 12th day of December last?

A Yes, sir.

Q Where did you see him? A In his own house.

Q What time of the day was this? A I went there at six o'clock, because I went there to tell him that I wanted him to come with me to go to work.

Q How long did you stay there? A Two hours and a half or three hours.

Q Was there anybody else there outside of Scollo?

A The whole family was there.

Q Are you acquainted with the family? A Yes, sir.

Q Well, now, tell us who was there, outside of Mr. Scollo and yourself? A Another woman was there; a woman with her husband and children.

Q Is that the same woman that you saw on the stand here before, when you were called in? A Yes, sir.

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MR. SCHUMACHER: The witness on the stand at that time was Rosa Rugiero.

BY MR. SCHUMACHER:

Q And that lady was there with her husband and two children? A Yes, sir.

Q Was she there when you got there or did she come there afterwards? A I found her there.

Q And did she leave before you did or did you leave first? A I went out first.

Q Did you see Mr. Scollo's sisters there? A They were all seated there.

Q Now, what fixes this date and time so firmly in your mind? A I bear it well in mind because I was through shoveling snow on the 11th, and on the 11th I got the pay for shoveling snow.

Q What kind of work were you going to get this man to do? A I was a kind of a boss in the snow shoveling and I wanted to give him a job to shovel snow.

Q Now, when you went there, where did you find the defendant? A I went there and I found that he was sick.

Q Well, now, tell us the general appearance of the place when you got there. Was there ---

MR. MANLEY: Don't lead him.

MR. SCHUMACHER: Well, I don't care to put the answer into his mouth.

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BY MR. SCHUMACHER:

Q What was everybody doing when you got there? A They were all talking.

Q Well, now, why did so many people happen to be there on that evening? A I don't know why they were there. There were not many people. There were all the parents of the defendant and the woman with the two children.

Q Do you know the defendant's sister-in-law Vincenza Falconi? A No, I don't. I only know Scollo's family.

MR. SCHUMACHER: Please call in Vincenza Falconi.

BY MR. SCHUMACHER:

Q Did you see that lady there (indicating Vincenza Falconi)? A Yes, sir.

Q Did this defendant go out at any time while you were there, that evening? A No, he was sick.

Q And he was there when you got there? A Yes, he was.

Q And he was still there when you left? A Yes, sir.

CROSS EXAMINATION BY MR. MANLEY:

Q How long have you known Guiseppe Scollo? A About two years.

Q Do you come from Sicily? A Yes, sir.

Q Do you come from the same province as Scollo? A Yes.

Q The same town? A No.

Q How far do you live from his town? A About an hour's

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distance by train.

Q Did you ever live in the same house here in New York with the defendant? A No. In New York?

Q Yes. A No. That's the only time I went to visit him there. I never lived with him in the same house.

Q Is that the only time you ever went to visit him, the night you went there? A In that house, it is the first time, but where he lived in other houses, I've been there.

Q Well, how long had it been since you have gone to visit Scollo, before the night that we are talking about? A In the summer-time, when he used to work for me at the Metropolitan Traction.

Q How many months do you think it had been since you had been at Scollo's house last? A I can't remember.

Q Well, give me your best idea? A Two or three months.

Q Where was he living then? A It was on the same street. I think the number was 19.

Q How long was it after the arrest of Scollo before you found out that he had been arrested? A I went there, I think it was, three or four days after, because I wanted him again to come to work at the snow, and his brother informed me that he had been arrested.

Q And did his brother tell you on what day he had been arrested? A The brother told me, "It was the night after, or the day after you were here in my house."

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Q And he told you all about what happened the night you were at his house? A Yes, sir.

Q And didn't he ask you if you remembered being in the house? A No, sir.

Q Didn't you say that you had been there but you were a little bit uncertain as to when the date was that you had been there? A I do remember the day, because I went there the next day after I got my pay, and that was the 11th.

Q Now, then, you got your pay on the 11th; is that it? A I got my pay on the 12th.

Q You got your pay then --- how long did you get your pay before you went there, how many days? A I got my pay on the 12th, at about one o'clock, and then towards night-time

I went over to the defendant Scollo's house, to tell him about work.

Q Then you got your pay on the same day that you went to Scollo's house? A Yes, sir.

Q Well, didn't you testify, when counsel for the defense was asking you questions here, that you got your pay on the 11th? A No; this is the first time I am telling you that I got my pay on the 12th.

Q What day of the week was the 11th? A I can't remember whether it was on a Tuesday or a Wednesday.

Q What day was the 12th, the day that you were there in Scollo's house? A Either a Tuesday or a Wednesday; I don't

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remember.

Q Well, is there not any way whereby you can tell this jury whether it was Tuesday or Wednesday that you were there?

A I don't remember. All I remember is that on the 11th I was through shoveling snow, and on the 12th I went there to get my pay.

Q Now, haven't you any way whatever that you can tell the jury about that enables you to say ----- question withdrawn. Haven't you got any way by which you can tell the jury that you were there, and saw the defendant Scollo on the 11th, 12th or 13th? A I remember that it was the 12th, because it was the day I got my pay. Whether it was on a Tuesday or Wednesday I don't know.

Q Haven't you any other means of telling the time than that? A I don't remember any other way.

Q How often did you get your pay at that time? A Only once, because it was the first snowstorm that I cleared.

Q Well, hadn't you been working for a long time before that? A I only shoveled snow for four days.

Q Well, don't you worked at anything else, except shoveling snow, when it happens to snow? A Well, I was boss in the Metropolitan Traction.

Q Boss where? A In the Metropolitan Traction.

Q Now, how long before the 12th of December had it been

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that you worked for the Metropolitan Traction? A I was there in the month of May at the Metropolitan Traction.

Q Haven't you worked at all anywhere from May until December? A I did work, but I worked somewhere else.

Q Well, where did you work? How soon before the 12th of December did you work? A For Bradley, contractors, in the subway.

Q The question is how long before the 12th of December you worked anywhere ---I don't care where --- how many days before? A The snowstorm it was that I worked, and before that I didn't work for ten days, because my finger was sore.

Q Then before the 12th you had worked at shoveling snow in one snowstorm, and then you hadn't worked for ten days before that? Now, do I understand that correctly? A Yes, sir.

Q Now, did you work before those ten days, immediately before those ten days? A With Bradley, the contractor.

Q How long did you work for him? A Three months.

Q And got your pay how often? A Every fifteen days.

Q And got your pay every fifteen days while you worked for him? A Yes, sir.

Q Now, did you work for the Metropolitan Traction just before those three months? A Yes, sir.

Q And how long did you work for them? A I started in March for the Metropolitan and I was there in May.

Q And you got your pay how often? A Once a week.

Q And you got your pay once a week all the time that you worked for the Metropolitan; is that right? A Yes, sir.

Q Now, right before the day that you were at Scollo's house, had you worked at shoveling snow, and how many days?

A Four days.

Q And how much money had you gotten, how much had you earned? A \$1.80 a day.

Q Had the snow stopped falling on the 12th? A On the 11th the snow stopped.

Q And the shoveling was all finished; was it? A Yes, sir.

Q And you had gotten your pay? A Yes, sir; I went on the 12th to get my pay.

Q Yes. I say you had already been paid for the snow that had fallen before the 12th? A For the four days I worked, yes, sir.

Q Now, what was there about the getting of your pay on the 12th, when you were in the habit of getting your pay, when you worked at other places, every week or every fifteen days, that caused you to remember that you were at Scollo's house on the 12th? A Because I was through shoveling snow, and there was no more snow to shovel and I went over there on the 12th at noon, to get my pay for my work.

Q And that is what enables you to remember the 12th?

A Yes. And I had it written on a paper where the head man

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gave us the slip where I was to be paid.

Q Now, how long had Scollo been sick on that day? A I don't know.

Q Did he tell you that he was sick? A He told me that he was sick.

Q And he looked pretty sick, didn't he, I suppose?

A I only saw him lying there, and I asked him what ailed him, and he said he had a headache and a cold.

Q Well, didn't he look pretty bad, as though he was sick? A No, he wasn't pale, but he only told me that he felt a headache, and he was sick.

Q And he was lying down; was he? A Yes, on the bed.

Q Do you know Vincenzo Dieli? A (No answer)

Q How long do you know him? A Which one?

Q Dieli? A I only known Scollo and the whole family. I don't know the others.

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

Q And do you know Arcardi? A No.

Q Don't you know that he is a Sicilian? A No. There are so many Sicilians here that I don't know him. I only know Scollo out of those three men (indicating the three defendants).

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V I N C E N Z A F A L C O N I, of 23 Monroe Street, a witness called on behalf of the defense, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. SCHUMACHER:

Q Mrs. Falconi, do you know the defendant Scollo here?

A Yes, I know him.

Q You are related to him; are you? A He is my brother-in-law.

Q That is, you are the wife of one of his brothers?

A Yes, sir.

Q You married one of his brothers? A Yes, sir.

Q Where do you live? A We are all living together.

Q In the same house with Scollo? A Yes, sir.

Q Well, now, were you at home on the 12th of December last? A Yes, sir.

Q Were you home all day? A All day.

Q And all the evening? A Sure.

Q Now, was Scollo home all day? A He went out in the morning and he came back about three or half past three. I had no watch in my hand but that's the best time I can give you.

Q Well, he came back in the afternoon? A Yes, sir.

Q Did he go out again after that? A No. He had a headache and a cold and he laid down.

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Q Well, now, who else was there, when he came home?

A There was everybody belonging to the family, because it was a holiday and we were celebrating the holiday.

Q Was Rosa Rugiero there? A Yes, sir.

Q What time did she get there, if you know? A About five o'clock, or a quarter past five. I had no watch, and that's the best time I can give you.

Q And was she alone when she came there? A No; two babies and the husband.

Q Now, how long did she stay there? A She came there about five o'clock or a quarter past five --- I had no watch --- and went away at ten o'clock.

Q Do you know Carmelo Garafolo? A Yes, sir.

Q Was he there that evening? A Yes, sir.

Q About what time did he come? A He came about four or half past four.

Q And how long did he stay there? A He went away about eight o'clock.

Q Now, tell us what fixes this date so firmly in your mind? A Because on that date, in the whole of our country, there is the holiday of St. Lucia, which we all celebrate.

Q Now, is that holiday celebrated in the daytime or only in the evening? A We begin to celebrate it on the 12th, early in the morning, and we finish it, the night of the 12th.

Q Now, was Scollo there the entire evening? A Yes, he

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was there; because he was lying down; he had a cold.

CROSS EXAMINATION BY MR. MANLEY:

Q How long had Scollo been sick? A It was only a short time, because he had a slight cold and he didn't feel very well, and he had a headache and he laid down.

Q Well, how many days before that day had he been sick?  
A I used to go out to work in the daytime, so I couldn't tell you whether he would lay down during the day, and then get up and go out, and come back again and lay down, because I had to go out to work.

Q Well, had he been complaining of being sick? A Yes, sir.

Q Well, for how many days before the day we have been talking about had he complained of being sick? A About eight days before; for about eight days before he said he didn't feel well.

Q How is this holiday celebrated? What do the people do to celebrate it? A We all unite together in a room, and we have a nice, friendly meeting; and if there is anybody outside of our family comes in, then we begin to bring out some cakes and nuts and feed them, and we enjoy ourselves in that way.

Q Now, does the celebration begin in the morning? A Yes, sir.

Q And on what day of the month? A 12th, and it ends

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on the 13th.

Q What time on the 13th does it end? A All day of the 13th.

Q You celebrate and eat and invite friends in on the 13th, too? A Yes, sir, we begin on the 12th, and finish on the 13th.

Q Finish on the evening of the 13th, I suppose?  
A Yes, sir.

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

Q What is the month before December? A November.

Q What is the month before November? A October.

Q What other holidays, Italian holidays, are there besides St. Lucia? A If anyone could write and read like yourself, he could keep the holidays in his remembrance better than I could.

Q Well, can you tell me? You see I can't read Italian. Can't you tell me what other Italian holidays there are, besides that of St. Lucia? A I was brought up by my father to celebrate a holiday as soon as the holiday would come, and when the day would be there, my father would say, "This is a holiday." And I would celebrate it. But I am illiterate, and I can't remember the holidays.

Q Is your father in this country now? A No, sir, he went back to Italy.

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Q And do you have to wait in this country until your father tells you to celebrate a holiday? A I know that there are several holidays, such as St. Carmel and St. Paul, and all that, but I don't know the months that they fall into.

Q Well, how is it that you happen to know the month of St. Lucia? A Because that's the only holiday that the whole of Italy celebrates.

Q Is that the only holiday that is observed by the Italians? A There are other holidays that Italians celebrate, but not like the one of St. Lucia. On St. Lucia's day, no one dares to go to work; everybody celebrates it.

Q Well, can't you give me the name of a single other holiday, besides that? A I think I can remember that, on the 8th of January, there is the first Italian holiday, on the 8th of January.

Q Well, now, is there any rule as to anybody's not going out of the house on the holiday of St. Lucia? A In our place in Sicily, we certainly do know St. Lucia as the most miraculous saint. We celebrate it by staying in the house and celebrating it. But others, who are hard up and need work, and are compelled to go to work, they go to work.

Q Well, then, there is no fixed rule that says that a person must stay in the house all day; is that it? A There is no such rule. But, if you want to enjoy yourself, you can remain in the house all day long.

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Q Where was Scollo during the forenoon of December 12th?

A I couldn't tell you, because I haven't looked after him.

Q Well, was he outside of the house somewhere, or in the house during the forenoon? A He was out.

Q He was out all the forenoon of the 12th, Tuesday?

A Yes, on the 12th, he was out.

Q When, what part of the 12th? A He must have had breakfast at ten o'clock, and went out, and then he came back about three or half past three.

Q Didn't you celebrate any during the forenoon? A We only begin to celebrate about twelve o'clock, that holiday, and, as for eating purposes, here in America, we are not particular whether we eat or don't eat.

Q Where was Scollo on the morning of the 13th? A About ten or eleven o'clock or a quarter to eleven, he went out.

Q You can remember that he went out on the 13th, at eleven o'clock in the morning? A Sure.

Q Did he stay out all the afternoon? A He didn't turn up any more because he was placed under arrest.

Q Well, did he stay out all the time after he went out at eleven o'clock? A Yes; because he was arrested after that.

Q Now, you had arranged to celebrate on the afternoon of the 13th; had you not? A Well, we did want to celebrate it, but we couldn't see him coming back, and he was sick when he went out, and we got all upset, and we stopped everything on

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the 13th.

Q But you had made arrangements to celebrate it on the afternoon of the 13th? A Yes, we were going to, if he had turned up.

Q Now, then, when he went out at eleven o'clock, didn't he say that he would be back early in the afternoon, to continue the celebration? A He simply said, on the 13th, "You have your meals, because I have had mine", and he went out.

MARIO SCOLLO, of 23 Monroe Street, a witness called on behalf of the Defense, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. SCHUMACHER:

Q You are a brother of the defendant Scollo here?

A Yes, sir.

Q And the lady that just went out of the door as you came in was your wife? A Yes, sir.

Q Do you remember where you were on the 12th day of December, 1911, in the evening? A At home.

Q You live at the same place with your brother? A Yes, sir.

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Q Were you at home all day? A I was home at night.

Q What time did you get home? A I went in in the afternoon, and I didn't go out any more.

Q You got home in the afternoon? A Yes, sir.

Q And what time in the afternoon? A About half past two or three o'clock; I wasn't looking at my watch.

Q And you didn't go out again? A No, sir, I didn't.

Q Was your brother, the defendant, home when you got home? A Yes, sir.

Q Did he go out at any time after that? A No, he didn't.

Q Now, who else was there at that time? A Brothers and sisters and friends.

Q Well, mention some of their names? A Carmelo Garafolo.

Q Was he there? A Yes, sir.

Q Who else? A Rosina.

Q Rosina what? A Another woman by the name of Rosina. I don't remember her surname.

Q Was it Rosina Rugiera? A Yes, sir.

Q Was she there when you got there? A Yes, sir.

Q Was she alone? A No; she was with her husband and two babies.

Q Now, will you tell us what fixes that date so firmly in your mind? A Because I remember it was a day of feast, that day.

Q Well, what do you call that day? A We call it Santa

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Lucia.

CROSS EXAMINATION BY MR. MANLEY:

Q Had you worked on the 12th? A No, sir.

Q Hadn't you worked at all on the 12th? A No, I didn't.

Q Where were you up to two o'clock in the afternoon, or two-thirty in the afternoon on the 12th? A I was in the house.

Q You stated, a little while ago, that you came home at night, and when counsel asked you, you said you came home at two-thirty in the afternoon; is that right? A I call the afternoon; at half past two, night-time.

Q Did you come in at half past two? A Yes, at half past two.

Q Well, you came in from where; where had you been?

A I took a walk and went to enjoy myself with some friends.

Q Well, what time did you go out to take this walk on this holiday? A About half past ten, I got out from the house.

Q Then you stayed out from half past ten to half past two; is that right? A Yes, sir.

Q Well, did the defendant Scollo take any walk, that day? A Yes, sir.

Q Did you go out of the house, the next day, on the 13th; did you work or did you sit around the house? A I was

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in the house.

Q All day on the 13th, the next day? A Yes, sir.

Q Didn't you take any walk at all on Wednesday? A No.

Q Did you brother Guiseppe take a walk on Wednesday?

A Yes, he went out.

Q What time did he go out? A About eleven o'clock.

Q And stayed out the rest of the day; didn't he?

A He didn't come home any more at night.

Q Well, hadn't you invited anybody to come in on the afternoon of the 13th, to come to your house? A No, sir, nobody.

SEBASTIANO SCOLLO, of 23 Monroe street, a witness called on behalf of the Defense, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. SCHUMACHER:

Q You are a brother of the defendant Scollo? A Why shouldn't I be his brother?

Q Do you live in the same house with him? A Altogether.

Q Who all lives there together with you?

MR. MANLEY: Oh, we will concede all that.

MR. SCHUMACHER: All right. We will cut it down then.

BY MR. SCHUMACHER:

Q Do you remember the 12th of December last? A Sure, I remember it.

Q Were you home on that day? A I was home.

Q Were you at home in the evening? A Yes, I was.

Q Well, now, was your brother, the defendant here, home in the evening? A Yes, sir, he was.

Q Had he been home all day or had he been out? A He got up late, that morning, and he went out about half past eight, and he came back about half past three.

Q Well, did he go out again after that? A No, he didn't.

Q He stayed home for the entire evening? A Yes, sir.

Q And you were home the entire evening? A Yes, sir.

Q Now, tell us what fixes that date so firmly in your mind? A Because it was a holiday.

Q Were you celebrating the holiday? A Yes, sir, the 12th and 13th.

Q Do you know Rosina Rugiero? A I do know her.

Q Was she at your house on the evening of the 12th?

A Yes, sir.

Q Did she come alone? A With her husband and two children, a boy and a girl.

Q Do you know Carmelo Garafolo? A I know him. I worked with him.

Q Did you see him that evening? A Yes, sir, he was there.

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Q Now, what time did he get there? A At six o'clock.

Q How long did he stay? A I don't know whether he went out at eight o'clock or a quarter past eight or half past eight.

Q And during all that time your brother, the defendant, was there? A Yes, sir.

CROSS EXAMINATION BY MR. MANLEY:

Q Did you work upon either the 12th or the 13th?

A No, we don't work those days.

Q Well, did you work those days? A I did not.

Q Did you stay in the house, 23 Monroe Street, all day upon each one of those days? A On the 12th, I was in and out, going in and out, but I was right outside of the house, on the street. I didn't go any distance at all.

Q Well, Guiseppe went out a part of the time on the 12th; didn't he? A The same way as I went out, he went out, too.

Q Did you go out with him all the time? A No; sometimes we used to be in the street together and sometimes he would go out alone.

Q Well, you went in and out on the 13th, in and out of the house; didn't you? A Yes, sir.

Q And the defendant Guiseppe went in and out on that day; didn't he? A He went out on the 13th, Guiseppe Scollo,

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about half past nine, and he came back about half past three.

MR. MANLEY: Now, I will concede that all the witnesses that you have got, I don't care how many, will testify to the same effect.

MR. SCHUMACHER: We have only one more after this matter. I will call her. Margarita Scollo.

MR. MANLEY: Very well.

M A R G A R I T A S C O L L O, of 23 Monroe Street, a witness called on behalf of the Defense, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. SCHUMACHER:

Q Is Guiseppe Scollo, the defendant here, your brother?

A Yes, sir.

Q And you live at the same place that he does? A Yes, sir.

Q Now, do you remember the 12th day of December, 1911?

A Yes, sir.

Q And did you see your brother Guiseppe on that day?

A Yes, sir.

Q Did he go out at all on that day? A He went out in the morning and came back about three or halfpast three.

Q Did he go out again after that? A No.

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Q He stayed in for the balance of the day? A Yes, sir, he was sick; he didn't feel well.

Q Now, do you know Rosa Rugiera? A Yes, sir.

Q Now, was she at your house on that day? A Yes, sir.

Q Did she come alone? A No, sir, with her husband and two little ones.

Q And do you know Carmelo Garafolo? A Yes, sir.

Q And was he there on that day? A Yes, sir.

Q And what time did he get there? A About five o'clock in the afternoon.

Q And how long did he remain? A Until about eight o'clock.

Q What fixes this date so firmly in your mind? A Because it was the eve of St. Lucia.

Q And you were celebrating, that evening? A Yes, sir. All Sicilians do that.

Q Now, were your two brothers who had just been in here to testify, were they there on that evening? A Yes; all the family was there.

CROSS EXAMINATION BY MR. MANLEY:

Q Was it not about a quarter to seven, on that night, the 12th, that the defendant Guiseppe came home? A No.

Q You are positive that he didn't come home about a quarter to seven that night? A No, we were all in. Guiseppe

was in and all of us.

Q Well, you say that Guiseppe came in about half past three? A About half past three.

Q Did you have things to drink, that afternoon, in the house, and that night? A Yes, like any family would take a drink.

G U I S E P P E T R U B O R I, of 240 Mulberry Street, a witness called on behalf of the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SCHUMACHER:

Q Do you know Guiseppe Scollo? A Yes, sir.

Q How long have you known him? A I've known him for years.

Q Well, where did you become acquainted with him?

A Well, we was working, last year, in a railroad.

Q What railroad? A The Metropolitan.

Q The Metropolitan? A Yes, sir. And so ---

Q Go ahead. A And so we got friends, and, after I left that job, then I started work for the Harlem Company, and so on the 13th of December ----

Q Now, wait a minute. Don't go so fast. Where were you working on the 13th of December last? A For the Hralem company.

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Q Where is their office? A 493 Sixth Avenue.

Q Did you see Guiseppe Scollo on that day? A I see him. He come down for a job down there. He did come down at five o'clock and left there at half past five.

Q Well, what is your position there? A Driver.

Q And he came to see you to try to get you to get him a job? A Yes, sir.

Q How long had he been working for the Metropolitan; do you know? A He did work for more than two years.

Q Well, do you know others who know him? A Sure, I know a lot of people.

Q And what is his general reputation among the people who know him as to honesty and integrity? A What do you mean by that?

Q Well, do people speak well of him? A Oh, yes, they all speak well about him.

Q Well, when did you first learn that you were wanted here as a witness? A Well, so they come down and tell me, on the same night, Guiseppe Scollo got locked up, and so I said I come.

Q Well, how did you come to be here, this morning? You got a subpoena, didn't you? A Yes, I got a subpoena.

Q When did you get that? A Last night.

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## CROSS EXAMINATION BY MR. MANLEY:

Q Now, whereabouts on the 13th of December, were you working? A 493 Sixth Avenue.

Q That is near what street? A Between Houston and Sixth Avenue.

Q Between Houston and Sixth Avenue? A Between Houston and Bleecker.

Q Between Houston and Bleecker? A Yes, sir.

Q Between Houston and Bleecker, on Sixth Avenue?

A Yes, sir, that's Sixth Avenue.

Q 493 Sixth Avenue is between what other streets?

A Houston and Bleecker; that's the stable I am working at.

Q 493 Sixth Avenue is between Houston and Bleecker?

A Yes, sir.

Q In what direction does Sixth Avenue run; north and south or east and west? A Well, north and south, down that way.

Q Well, now, what is the street immediately east of Sixth Avenue, between Houston and Bleecker? A Between Houston and Bleecker?

Q Yes. A There is the stable.

Q You say that you worked at 493 Sixth Avenue, which is between Houston and Bleecker? A Yes, sir.

Q Now, I am asking you what the street is running parallel with Sixth Avenue, just immediately east of Sixth Avenue,

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the first one? A Well, it run down that way (illustrating).

Q Well, how far is this stable from Worcester Street, between Houston and Bleecker? A One block down.

Q And you say he came there at five o'clock? A I see him at five o'clock.

Q And he left at five-thirty? A Yes, sir.

Q How long have you known Guiseppe Arcardi? A I don't know him.

Q Never saw him before? A Never saw him.

Q And how long have you known this defendant here, Dieli (indicating)? A I never see him.

Q Never saw him at any time? A No, sir.

MR. SCHUMACHER: That's all with respect to the defendant Scollo. I will now call Dieli.

V I N C E N Z O D I E L I, one of the defendants, of 97 Allen Street, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. SCHUMACHER:

Q Do you know Sebastiano Pironeo? A No.

Q When was the first time you ever saw him? A When they brought me to the station house I saw him in the station house.

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

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Q When was the first time you ever saw the defendant Scollo? A In the station house.

Q And do you know the defendant Arcardi? A No.

Q When was the first time you ever saw him? A Inside of the station house.

Q Do you know the witness Spinosa, who testified here? A No.

Q When did you see him for the first time? A Right here, at this witness chair.

Q Now, you remember the day on which you were arrested; do you not? A Yes, sir.

Q All right. Where were you when you were arrested? A I was waiting on the corner of Bleecker Street for my girl, to bring her home. I was waiting for my girl. I go every night to meet her.

Q What is this girl's name? A I know her name. Her first name is Elsie.

Q Don't you know her last name? A No, because I met her at a moving picture.

Q Where does she live? A I don't know.

Q Where does she work? A She works at a waist factory in Bleecker Street.

Q What number in Bleecker Street? A I think it is 204. I can't remember the number.

Q Now, do you remember the day before you were arrested?

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A Yes, sir.

Q Where were you on that day? A I was in the house.

Q Did you go out at all? A Yes, sir.

Q What time did you go out? A About four o'clock.

Q Where did you go to? A I went in the saloon, 125 Mott Street.

Q How long did you stay there? A Until eight o'clock at night.

Q Anybody with you there in that saloon? A No.

Q Did you meet anybody there in the saloon? A No.

Q Was the bartender there? A Yes, sir.

Q Do you know him personally? A I know him.

Q Do you know his name? A Yes, sir.

Q What is his name? A Modesto.

Q Modesto? A Yes, sir.

Q Do you know where he lives? A I don't know.

Q Now, you say you stayed there until eight o'clock.

What did you do then? A I was waiting for a person who had to give me work, the next day.

Q What's his name? A Giovanni Busso.

Q Well, did you see him? A Yes, sir.

Q Where did you see him? A He came inside the bar.

Q About what time was that? A About half past five or six o'clock.

Q And did he stay there with you any length of time?

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A Yes, sir, we were talking.

Q How long did he stay there? A Until eight o'clock.

Q Well, then, did he go away first or did you go away first? A We went out both together, to a moving picture show.

Q And how long did you stay there? A After ten o'clock.

Q And then after that what did you do? A I went to bed.

Q Have you ever been convicted of any crime before?

A No.

Q Ever been arrested before for any reason? A Once, and I was discharged.

Q What were you arrested for on that occasion? A I was working at a moving picture show, and the son of the proprietor had a fight there, and when they arrested him, they placed me under arrest, but I was eventually discharged.

Q And that's the only time you have ever been arrested?

A Yes, sir.

Q How much money did you have when you were searched in the station house after you were locked up? A Ten cents.

Q You are sure about that? A Sure.

Q Did you see how much money your co-defendants had when they were searched?

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until ten minutes past two o'clock).

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After Recess.

V I N C E N Z O D I E L I, his direct examination being continued, testified as follows:

MR. SCHUMACHER: Will you please repeat the last question, Mr. Stenographer?

(The last question is repeated by the stenographer).

A One had two dollars, that is Scollo, and the other one had but twenty-five cents.

BY MR. SCHUMACHER:

Q Where did you see this money? A When we were in the Tombs.

Q Did you see it in the station house when they were searched? A Yes, sir.

Q Now, you are sure that Scollo had only two dollars; are you? A Yes, sir.

Q Now, Mr. Dieli, the complaining witness, Mr. Pironeo, claims that on the 12th of December you approached him on Elizabeth Street, and made a pass at him (illustrating); is that correct? A No, sir.

Q Did you see him there on that day? A No, sir.

Q Were you on Elizabeth Street at any time on the 12th of December? A No.

Q Now, Mr. Spinoso also testified that he saw you there at that time. Is that correct? A No, sir.

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Q Did you see Mr. Scollo or Mr. Arcardi on the 12th day of December, 1911? A I don't know them. Never saw them.

Q The complaining witness also charges that you followed behind him and Mr. Scollo to a bank at No. 3 Mulberry Street, on that day; is that correct? A I don't know nothing about that.

Q Now, to sum up the entire question ---- you understand Italian; don't you? A Yes, sir.

Q Did you hear what the first witness, Sebastiano Pironeo, said on the stand? A Yes, sir.

Q Is that true, is anything that he said true? A No.

Q Now, you heard what the other witness said, Spinoso; did you not? A Yes, sir.

Q Now, is any part of his testimony true? A No.

Q Did you ever see that witness before? A No, sir.

Q You don't know Spinoso? A I do not.

Q Now, before you went into this saloon on the 12th of December last, where were you? A At home.

Q Had you been at home all the morning? A On the morning, I went to my boss, to see if he would give me a job in the moving picture show.

Q What is his name? A Giovanni Malgiere.

Q Where is his place of business? A 204 Mott Street.

Q How long did you work for him? A Two years.

Q When did you cease working for him? A In the month

of October.

Q What kind of a place of business is this that Mr. Malgiere conducts? A He's got a moving picture show and also a saloon attached to it, and I would work in both places.

Q What kind of work did you do there? A I was an usher and a sweeper, and behind the bar I would act as a bartender, sometimes.

Q Now, who did you work for before you worked for Malgiere? A 147 Sullivan Street.

Q What kind of a place is that? A Furniture store, stoves, beds, tables.

Q How long did you work there? A 28 months.

Q How long have you been in this country? A Nearly seven years.

Q Married? A No.

Q Where do you live? A 97 Allen Street.

Q Alone or with some one else? A Alone.

Q Any relatives living here? A No.

CROSS EXAMINATION BY MR. MANLEY:

Q On what street were you at the time you were arrested?  
A Worcester Street.

Q Between Bleecker and Houston? A Yes, sir.

Q Now, you say that you had a girl whom you used to wait for at the corner of Bleecker Street; is that right? A Yes,



sir.

Q Corner of Bleecker and what other street? A The street coming up to Bleecker Street, that corner.

Q East or west of Worcester? A I don't know. It comes from the uptown side.

Q Then you didn't wait for the girl usually on the same block where you were arrested; is that so? A No. I was waiting for the girl, she took her time to come out, and then I walked farther out and I was placed under arrest.

Q How many blocks from the place where you were arrested did you usually wait for the girl? A The distance from where I was arrested, and where I waited for the girl is from this witness chair to the end of the courtroom there, as being the distance of 60 feet.

Q Well, was it in the same block that you were arrested?  
A Yes, sir.

Q That is, within the same two streets between which you were arrested; is that it? A I was arrested at the corner of Houston Street.

Q You say that you were arrested on Worcester Street. On one side of Worcester Street is Bleecker, on one side of the block, and on the other side of the block is Houston. Were you arrested in the same block in which you usually waited for the girl? A Yes, sir, on the same block as I waited for her.

Q How long were you there waiting for the girl before

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you were arrested? A About ten minutes.

Q Had you been standing on the street? A Yes, sir.

Q Had you been standing near Bleecker or near Houston?

A Near Bleecker.

Q On which side of Worcester Street, the east or west side?

A I can't tell you. That way (illustrating).

Q Towards Greene Street or towards Broadway? A That side, up (illustrating).

Q Do you know where Broadway is? A Where the trains pass?

Q What do you mean by the trains? A Where the trains passes in the air.

Q Do you mean the elevated, over on the Bowery? A No.

Q Or do you mean the Sixth Avenue elevated? A I was waiting on the uptown side of Sixth Avenue.

Q And you were waiting there alone; were you? A Yes, sir.

Q And you were not with the other two men, Scollo or Arcardi; were you? A No.

Q Well, you got tired of waiting and you started to go away; is that it? A Yes, sir.

Q Did you notice, in all the time that you were there waiting for the girl, a schoolhouse in that block? A No, sir.

Q How far had you started to walk away before anybody stopped you? A About half a block.

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Q Walking by yourself; weren't you? A Yes, sir.

Q Nobody with you at all? A No, sir.

Q And you didn't say a word to anybody before you were arrested, I suppose? A No.

Q And you didn't see either of these men, Arcardi or Scollo, until after you were stopped; is that it? A Yes, sir.

Q Is that right? A Yes, sir.

Q Did you see or talk to Sebastiano Pironeo, whom you have seen several times since, before you were arrested? A I don't know him. I didn't know him then.

Q Well, you afterwards found out, after you were arrested, that there was such a man as Pironeo; didn't you? A No, I didn't, not even then.

Q Well, when was the first time that you ever saw Pironeo, at any time? A In the station house.

Q You didn't see him on the street at all, then? A No.

Q Well, then, of course, you hadn't said anything to Pironeo before you were arrested? A I don't know him.

Q The question is had you said anything to Pironeo before you were arrested? Now, that is easily answered? A I didn't speak with anybody.

Q I don't suppose, then, that you saw the witness Spinoso before you were arrested on the street; did you? A I didn't see anybody.

Q Then you didn't talk to anybody or speak a solitary

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word from the time you left the place where you were waiting for the girl until you were arrested? A Nobody.

Q What did the man say to you when he arrested you?

A "Stop. I want to speak to you."

Q Were you arrested before or after the other two defendants? A After they arrested the two.

Q You were the last man, then, arrested; were you?

A Yes, sir.

Q You were arrested after Scollo was arrested; is that so? A After Scollo.

Q Did you see a crowd standing around there on the street at the time you were arrested, in a circle? A There was a big crowd coming out from the factories; I don't know who they were.

Q At the very moment that you were arrested, did you, at that time, at the very spot where you were standing, see a crowd around you? A Yes, sir.

Q They got right around you, on all sides; did they? A Yes, sir.

Q Was Scollo inside that crowd? A No.

Q Now, you are sure you and the other men were not arrested at the same time; are you? A I was arrested first.

Q Now, will you tell me whether you were the first, second or third man arrested, so that I will know positively? A I was the first one to be arrested.

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Q Well, who was the second one. A I don't know. I was standing like a fool there.

Q Well, I suppose, then, since you are the first man who was arrested, while you were walking on the street, saying nothing to anybody, some one came out and garbbed you; is that right? A It is.

Q After you were grabbed, did you see anybody grab Scollo or Arcardi? A I remained a stupid man; I couldn't move.

Q And were you so stupid that you could not see when these other men, these other defendants, were arrested? A Yes; I didn't see.

Q Well, did the policeman who arrested you have on a uniform? A What's that, a uniform?

Q Well, blue clothes and brass buttons? A I didn't see him.

Q Well, didn't you see the man who put his hands on you, and stopped you? A I didn't pay attention. I didn't look at him. I don't know him.

Q Well, how did you come to stop? Tell us that. A This man who grabbed me said, "Hello, you are under arrest," and I remained there like a fool, and stood there with my arms crossed, and then sat down on a stoop and waited.

Q Didn't the man who arrested you tell you what you were arrested for? A I didn't ask him anything, because I didn't

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know anything about it.

Q Well, didn't you inquire what it was for? A He told me, "Come to the station house and there we will talk it over."

Q Well, didn't you have curiosity enough to ask him what it was all about? A As I couldn't talk, how could I?

Q Well, he was an Italian, wasn't he? A But he came to me and spoke to me in English. He didn't speak to me in Italian.

Q Didn't you know that he was an Italian? Couldn't you tell by his looks? A No.

Q And he didn't say a solitary word in Italian? A No, not a word.

Q Did he put you inside of a hallway? A Yes.

Q Did you see him put Scollo in a doorway? A Afterwards.

Q And Arcardi? A Yes, afterwards.

Q Were you put in the hallway before you had seen either Scollo or Arcardi? A Yes.

Q At that was the first time you haad ever seen either of them; was it? A No. The first time I saw them was in the station house. It was dark in this hallway, and I couldn't see their face.

Q Now, when you got to the station house, that was the first time you had seen Arcardi or Scollo; is that so? A Yes, sir.

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Q Now, I ask you again, and I want you to thoroughly understand it. Had you ever seen Arcardi in your life before you got to the station house, after you were arrested? A That was the first time.

Q And as to Scollo you make the same answer? A Yes, sir.

Q Is this your signature upon this paper which I show you, "Vincenzo Dieli"? A Yes, sir.

Q Do you remember being asked certain question in the Magistrate's Court, where there is a Judge on the bench, the same as there is here? A Yes, sir.

Q And when you signed your name at the bottom of this paper, you saw the man who was asking the question write down something; did you not? A Yes, I did.

Q You told him that you were 24 years old? A Yes, sir.

Q Seven years in the United States? A Yes, sir.

Q Lived three months at 97 Allen Street? A Yes, sir.

Q And your occupation was a cleaner? A Yes, sir.

Q Now, Scollo was there at the same time and he wrote on a piece of paper, after the questions were asked of him; didn't he? A Yes, sir.

Q And Arcardi was there, too, and they asked him the same questions? A Yes, sir.

Q And you saw Arcardi write something on a paper; didn't you? A Yes, sir.

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Q You were all there together? A Yes, sir.

Q Now, didn't you hear Guiseppe Arcardi say, also, that he lived three months in 97 Allen Street? A He was talking in English.

Q Did he talk at all in Italian? A A few words.

Q Well, can't you understand "Allen Street", when it is put in English? A I didn't hear it.

Q You want to tell this jury now that you had never seen Arcardi before you saw him in the station house? A That is the first time.

Q Is "Elsie" here to-day? A I don't know.

MR. MANLEY: That's all I want to ask.

MR. SCHUMACHER: That's all.

G I O V A N N I M A L G I E R E, of 204 Mott Street, a witness called on behalf of the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SCHUMACHER:

Q What is your business, Mr. Malgiere? A Saloon keeper and moving pictures. I have a moving picture place.

Q Whereabouts is your place of business? A 204 Mott Street.

Q Do you know the defendant Dieli? A Yes; he worked

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for me.

Q Do you know the other two men here (indicating the other two defendants)? A No.

Q How long did Dieli work for you? A Two years, he worked for me.

Q What did he do for you? A In the mroning he cleaned the saloon, and, in the night-time he worked for a watchman for the moving picture show.

Q When did he stop working for you? A About seven months ago.

Q How long did he work for you? A About two years.

Q During the two years that he worked for you was his reputatiön for honesty and integrity good or bad, or what was it? A (No answer)

(The question is repeated through the Interpreter).

A He was an honest boy.

BY MR. SCHUMACHER:

Q You never had any cause to complain as to his integrity or honesty?

MR. MANLEY: I object to that as incompetent.

THE COURT: Objection sustained.

BY MR. SCHUMACHER:

Q Do you know other people who know this defendant Dieli?

A No.

MR. SCHUMACHER: That's all.

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CROSS EXAMINATION BY MR. MANLEY:

Q You don't know anybody else at all who knows, in that neighborhood where your moving picture place is, the defendant Dieli? A Yes, sir.

RE DIRECT EXAMINATION BY MR. SCHULACHER:

Q Who else do you know that knows Dieli? A Another partner of mine, who is in the moving picture business, knows him.

Q Now, among the people that you know know the defendant, what is his reputation?

MR. MANLEY: I object to that as repetition. We have already had it.

MR. SCHULACHER: No, it has just come out that he knows other people, in answer to the District Attorney's own question.

THE COURT: I will allow it.

A They know him as a good person.

THE COURT: No, strike that out.

BY MR. SCHULACHER:

Q What do people who know him say about him?

MR. MANLEY: Now, I object to that question, the form of it. Put it in the proper form and I will not object.

BY THE COURT:

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Q Do you know what his reputation is?

THE COURT: He says that they know him to be an honest man, but how does he know what they know?

BY MR. SCHUMACHER:

Q Do you know what his reputation is in the community?

A Before it was good; now, I don't know.

G I O V A N N I B U S S O, of 124 Mott Street, a witness called on behalf of the Defense, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. SCHUMACHER:

Q Mr. Busso, what is your business? A Comb factory.

Q Do you either of these defendants sitting here? A I only know Dieli.

Q How long have you known Dieli? A Three or four years.

Q Do you remember seeing Dieli on the 12th day of December? A Yes, sir.

Q Where did you see him? A I saw him near the factory, at seven o'clock in the morning.

Q And did you say anything to him? A Yes, sir.

Q Now, did you see him again, later that day? A I saw

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him at night.

Q At what time? A Seven o'clock.

Q And where did you see him? A In the saloon of Modesto, 125 Mott Street.

Q How long did you stay there with him in that saloon?

A More than an hour.

Q And then where did you go? A I went to the corner of Grand Street.

Q What is at the corner of Grand Street? A A moving picture show.

Q And did he go with you? A Yes.

Q Did you both go into the moving picture show? A Yes, sir.

Q How long did you stay there? A More than half an hour, and then I went out.

Q Did he go out with you? A I went out and he remained in.

Q Why did you meet him there, at 125 Mott Street, on that evening? A Because, when I met him, in the morning, in front of the factory, I asked him, "What are you doing?" And he said, "I'm out of work, and I would like to get some work. Can you get me into the factory?" And I said, "Meet me down at that place, to-night, and I will see what I can do for you."

And then I said to him, "I will see, I will ask my boss if there is any vacancy in the factory, but I don't think so,"

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and he said, "Then meet me in that saloon, to-night, and give me an answer."

Q. Was there anybody else in that saloon besides you and Dieli? A. I was there with Dieli, talking. The bar was packed up with people, being a cold night, and it was full of people.

Q. Was the proprietor, Modesto, there? A. I didn't pay any attention to that.

Q. Now, have you been in the neighborhood of this saloon recently? A. That saloon was right opposite my own house.

Q. Is it still open for business? A. Yes, it is still there.

Q. Does Modesto still run it? A. No.

Q. Do you know where Modesto is now? A. No, I don't know.

Q. Now, what time did you leave your place of business, that day? A. Half past five.

Q. Where is your place of business? A. 161 Mulberry street, Mr. Rice is the proprietor.

Q. And you went from there directly to 125 Mott street? A. No, I went to the house first, because I've got my family, and at seven o'clock I went out from the house.

Q. Now, you say you have known this defendant Dieli for about three years? A. Yes, sir.

Q. Do you know other people who know him? A. I know him for three or four years.

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Q (Question repeated) A Yes.

Q What is his reputation in the community as to honesty and integrity? A He is a countryman of mine.

MR. SCHUMACHER: That is not responsive, if your Honor please, and I move to strike it out.

THE COURT: Motion granted.

(Question repeated by the stenographer).

Q He is the son of a gentleman and he is a magistrate, his father is a magistrate. He is a noble fellow.

BY MR. MANLEY:

Q The father or the son? A The father of the defendant is a magistrate.

CROSS EXAMINATION BY MR. MANLEY:

Q And do you come from the same town in Italy that Dieli comes from? A Yes.

Q Where is the town? A Licodeo, Province of Cattagna.

Q Is that in Sicily? A Yes, in Sicily.

Q What is the name of the province again? A Cattagna.

Q Well, which one has been in this country the longer, you or Dieli? A I know him three or four years. I've been seven years in this country, and I don't know whether he has been here longer than that or not.

Q Did you know him over in Italy? A Yes, sir.

Q Well, you have been here seven years, you say, and he says he has been here seven years. Now, how long did you

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know him in Italy? A Since a boy.

Q Well, how many years did you know him in Italy? A I knew him since he was 12 or 13 years old.

Q What is your business? A I am a shoemaker.

Q And where is your place of business? A In Italy I was a shoemaker.

Q Well, what is your business now? A I am in a comb factory here in New York.

Q How long have you worked there? A Five years.

Q Now, you have seen Dieli very often during the seven years that you have been here in this country; haven't you?

A Oh, yes.

Q How often a week do you think you used to see him?

A Once a week, sometimes none at all, and sometimes every two weeks.

Q Now, when was the last time before the 12th of December that you saw him? A I can't remember.

Q Give me your best idea? A I can't remember.

Q Give me your best judgment? A About seven or eight or ten or fifteen days before the 12th.

Q Then we will say from seven to fifteen days. How long was it after he was arrested that you found out he was arrested?

A Ten or fifteen days after.

Q Then, ten or fifteen days afterwards, you could remember back, and tell where you had seen him, at what time and place,

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on the 12th of December; is that right? A I remembered that, after he was arrested. I didn't know any more about it.

Q Well, I say, when you found out about his arrest, ten or fifteen days after his arrest, you could then remember when and where, on the day he was arrested, you saw him? A Yes, I remembered that, because it was St. Lucia's Day, and that's how I remembered it.

Q Who was it told you he was arrested? A Some countrymen, talking there, told about it.

Q Have you been to see Dieli since he was arrested and talked to him? A No.

Q Has anybody asked you whether or not you remembered seeing him on the 12th of December? A Nobody.

Q And you haven't talked it over with anybody and told them that you saw him on the 12th of December, then? A No.

Q What day of the week was it that you saw him on the 12th of December? A It was on a Tuesday.

Q Now, you saw him in the morning, at seven o'clock first, you say; is that it? A Yes, sir.

Q And you at that time saw him near the factory? A Yes, sir.

Q Did you work all that day? A Yes, sir.

Q Did Dieli ever ask you before to try to get a job for him? A Yes.

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Q He had asked you several times; had he? A Only one he asked me to find him work.

Q And that's the only time he ever asked you to find him work? A Yes, sir.

Q And you told him you would tell him at seven o'clock, that night; is that it? A Yes, sir, he told me himself, "I'll be in the saloon at seven o'clock. Bring me an answer, if you can get me work."

Q Then you both met at 125 Mott street, at seven o'clock? A I went there and found him there.

Q Well, you were both there at seven o'clock? A Yes, sir.

Q Then you went to the moving picture show and you stayed there half an hour? A I remained only half an hour and he remained longer.

Q Well, then, each of you was probably in the moving picture place at half past seven; were you? A Between the saloon and the moving pictures it must have been eight o'clock, or half past eight.

Q Well, did anybody ever say anything to you about it's being important to testify as to seeing Dieli between the hours of six and eight? A Nobody.

Q Nobody suggested that it was any more important to tell where he was between six and eight than it was at seven o'clock in the morning; is that it? A Nobody.

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Q Didn't anybody ask you at all, before you went on the stand, as to where Dieli was between six and eight? A No, nobody.

Q Now, didn't somebody come to you, and say, "Here, you know Dieli. Don't you remember, at such and such a time,

Dieli and you and perhaps somebody else were in the saloon at 125 Mott Street?" didn't that take place? A I saw nobody. I saw Dieli and that's what I am testifying.

Q And didn't somebody say to you, "Now, we were all in there together about seven o'clock at night, in the saloon at 125 Mott Street"? A No, sir.

Q And didn't you say, "Yes, I remember being in there, but I don't remember what night it was"? A No.

Q And didn't several men then say, "Don't you remember it was Tuesday night?" A I remembered it. Nobody told me.

Q Well, you had been in there in the saloon with Dieli, before that night; hadn't you? A No, never.

Q That's the first time you had ever been in there?  
A Yes, sir.

Q Why, you said you lived right on that corner? A Oh, I do go there to get a pint of beer to drink it at home, but I never go in there to drink.

Q Well, you go in there? I didn't ask you about drinking in there. A I don't go myself. I send the children.

Q Then, as I understand it, you had never seen Dieli in

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that place before the night of the 12th, at seven o'clock sharp? A Yes, sir.

Q You had or had not; which? A I saw him there at seven o'clock.

Q Is that the only time, I say, that night? A Yes, sir.

Q Did you celebrate St. Lucia's Day? A No, I worked that day.

Q You didn't celebrate at all, then; did you? A My boss told me to come to work and everybody did work, but I did celebrate it towards night-time.

Q Did you celebrate it the next day, the 13th, or did you work? A No, I worked that day, too.

Q Well, what is there about St. Lucia's Day that makes you think that you and Dieli were in there at seven o'clock? Did you talk over the day? A The reason I worked on St. Lucia's Day was because my boss asked me to work.

Q Well, wouldn't it have been just as easy for this to have occurred on Monday? Couldn't you have met Dieli on a Monday and agree to meet him in the saloon in the evening? A No, it was a Tuesday.

Q Couldn't it have happened on the preceding Sunday or Saturday? A No, it was the day of St. Lucia, and I remember it.

Q Well, what is there about that night to make you think

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it was the night of the 12th, when you and Dieli said nothing about its being St. Lucia's Day? A I remember it so well, because, on the day of St. Lucia, I didn't even eat in the factory so as to have a good appetite at home.

Q Well, did you have that meal while you were in the saloon with Dieli? A Yes, sir, before I went there.

Q And so you had the sensation of having had a good dinner, a short while before, didn't you, when you were in the saloon? A Yes, my wife cooked a good dinner, and I enjoyed it.

Q Now, how long before you met Dieli did your wife cook that dinner, and did you eat it? A I don't know how a housekeeper cooks. I went there about halfpast five, after I left the factory, and dinner has to be ready then, and you can imagine when a good housekeeper can make a good dinner ready.

Q Now, when you started to remember back, after ten or fifteen days, when you heard of the arrest, you remembered the 12th of December as the day on which you had a good dinner; is that it? A I remember it because it was St. Lucia's Day. It was a holiday.

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G U I S E P P E A R C A R D I, of 97 Allen Street, one of the defendants, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SCHUMACHER:

Q Arcardi, have you ever been convicted of any crime?

A (No answer)

(Question repeated through the Interpreter).

A Never.

Q Never arrested before for any cause? A Never.

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

MR. SCHUMACHER: Now, answer the questions in English and the jury will appreciate it better.

THE WITNESS: I can't talk English much.

MR. SCHUMACHER: well, answer the best you can. I can understand you.

BY MR. SCHUMACHER:

Q What is your business? What do you work at? A Shoemaker.

Q Shoemaker? A Yes, sir.

Q Now, how long have you been working at that business?

A I've been eight years in this country; all the time I've worked as a shoemaker.

Q And you have had places your own? A Yes, I worked for myself.

Q Now, last December who did you work for? A I worked

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for Carmelo Gullizia.

Q And Carmelo Gullizia is a cousin of yours? A Yes, sir.

Q And where is his place of business? A 375 West 127th Street.

Q Now, did you work for --- I withdraw that question. What time in the morning did you start in to work for him?

A Seven o'clock in the morning.

Q And how long did you work in the evening? A Until half past eight or nine o'clock.

Q Now, do you remember working for him on the 12th day of December last? A Yes, sir.

Q What time did you start to work that day? A Nine o'clock.

Q No, what time did you start to work? A Seven o'clock.

Q And what time did you stop working? A Nine o'clock.

Q And you are sure about that? A Yes, sir.

Q Now, what did you do after you stopped work, that night?

A Well, after the work, I take the train and I come down home.

Q Now, did you go to work the next day? A Yes, sir, I worked half a day, because it is a holiday, St. Lucia.

Q And after you stopped working, the next day, on the 13th, where did you go to? A Well, I will take a little time in Central Park.

Q And were you on Elizabeth Street on that day? A No,

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sir. Just I take the car and go to Central Park, and five o'clock I take the train, and I stop at Bleecker Street and Sixth Avenue and I go home.

Q Now, you were arrested that afternoon? A Yes, sir.

Q Where? A At Bleecker and Houston.

Q Well, how did you happen to be there at that time?

A I stop on the train at Bleecker Street; I come from uptown and I stop at Bleecker Street.

Q Were you alone? A Yes, sir.

Q Do you know either of these defendants? A No, sir.

Q Were either of them with you at that time? A No, sir.

Q Do you know Sebastiano Pironeo, the first witness on the stand, yesterday morning? A No, sir.

Q Do you know Spinoso, the other witness on the stand? A No, sir, never.

Q Now, you understand and speak Italian? A Yes, sir.

Q You heard the testimony of these two witnesses on the stand? A Yes, sir.

Q You heard Pironeo accuse you, together with the other two, of having held him up for money on the night of the 12th of December? A (No answer)

Q (Question repeated through the Interpreter) A Yes, sir, I heard it.

Q Is that true? A It's a lie.

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Q When was the first time you ever saw Pironeo? A On the police court; on the station of police.

Q Never saw him before that? A No, sir, never.

Q Did you see him on the night of December 12th? A No, sir.

Q When was the first time you saw Mr. Spinoso? A I saw him in the station house.

Q In the station house? A Yes, sir.

Q That's the first time you saw him? A Yes, sir.

Q You don't know him? A I don't know him.

Q Now, when you first came to this country, did you have places of your own down south? Were you in business for yourself down in South America? A I have been five years in South Carolina, in Charleston. I have got two shops.

Q How long had you been in New York before your arrest?

A About two months. And I had a shop in Summerville, New Jersey, and I sold a shop in Summerville, New Jersey; and I sold my shop and went to Rockaway Beach, and then I worked in Newburgh, and then I come back to New York.

Q And you worked for your cousin, when you got back to New York? A Yes, sir.

Q How much money did you have in your possession when you were arrested? A Oh, that time?

Q Yes. A I have 25 cents in my pocket.

Q When you were searched in the station house? A Yes,

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sir.

Q Now, did you see Scollo and Dieli searched in the station house? A Yes, sir.

Q Did you see how much money they had? A Ten cents, Dieli; and two dollars, Scollo.

Q And you are sure that Scollo didn't have any more money than that? A No more than two dollars.

Q So that all the testimony of the witnesses Pironeo and Spinoso is untrue? A Is all a lie.

Q You were not on Elizabeth street with these men (indicating the two defendants)? A I never see those men.

Q And you didn't hold those men up for money, Pironeo and Spinoso? A No, sir.

Q And you didn't follow them to a bank for money?  
A No, sir.

Q And you didn't go back to a saloon following Pironeo and Scollo? A No, sir.

Q And you didn't stand outside talking to the witness Spinoso? A No, sir.

CROSS EXAMINATION BY MR. MANLEY:

Q Had you lived three months at 97 Allen street? A what do you say?

Q (Question repeated) A Yes, sir.

Q You never saw Dieli before in your life until the day

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he was arrested? A Never.

Q Now, didn't he live at 97 Allen Street, for three months, too? A Well, Allen Street is a big building.

Q You never saw him in the house or coming in or out?

A No, sir.

Q Well, how big a building is it? A Well, it is four or five floors.

Q Well, it's just about the same size as the other buildings around there; isn't it? A Yes, but it may keep two or three hundred people in different families in a building like that, you know.

Q Now, will you explain how, if you had never seen Dieli before the night of your arrest, and you and he lived at 97 Allen Street, you were both in the same block at the same time, and are charged by Pironeo with holding him up; now, explain that? A Now, you know, jury, a house with four or five floors, it may be 25 or 30 families, and I don't know him. He's a stranger.

Q (Question repeated) A well, just I came from uptown on the train, and I stopped with the train at that street. The train is stopping on Bleecker Street, and I want to pass Delancy Street, and walk to Delancy Street.

Q Well, were you walking on that street when you were arrested? A What street.

Q The street where you were arrested? A Yes, sir.

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Q You were walking on the street? A Yes, sir.

Q Was Dieli walking on the street, too? A I no see Dieli.

Q Well, you saw him after he was arrested; didn't you?

A Yes, I saw him when he was arrested, in the station for the police. I don't know his name.

Q I mean when he was walking on the street, and somebody stopped him; did you see him, Dieli? A I didn't see him.

Q Where was Dieli when you first saw him there on the street? A well, I didn't see him at all. I only see a lot of people. That's the time when people come from the factories.

Q Well, where was he when you first saw him? A (No answer)

(The question is repeated through the Interpreter).

A I said that I saw that aman, a certain man, had got hold of him, already.

Q (Question repeated) A I saw him in the middle of the crowd but I didn't know hisname, I didn't know who he was.

Q Was he arrested before you? A No, I am the second, I am the second arrested. I hear just now the name of Dieli. I didn't know when he passed the street there. I saw a Jew fellow, and I says, "Will you please give me a light for my cigarette," and just then a fellow comes and puts a pistol in my mouth, and he said, "You're arrested", and I said, "What for I am arrested?" And he said, "You come in the station

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house and I'll tell you."

Q You were just lighting a cigarette? A Yes, sir.

Q A cigarette that you made yourself? A No, sir, I had a package, and I asked the Jew fellow for a light.

Q You had taken out a cigarette and you asked a man for a light? A Yes, sir, and a man give me the light for the cigarette.

Q Who was the man that you asked for a light? A I don't know. A man with a suit like me.

Q And when you asked the man for a light, did the officer come up and arrest you, at the very time when you were getting the light? Did he stop you and arrest you? A (No answer).

(Question repeated through the Interpreter).

A Yes, sir; that time, just I light the cigarette, he arrested me.

Q Now, who was arrested first of you three men?

A Well, I don't know. There is a lot of people. That's the time the people come from the factories, you know.

Q Do you understand me? A I understand you a little bit, yes.

Q Now, I asked you who was arrested first, you or Scollo or Dieli? A Well, I'm arrested just when I get the light for my cigarette. I am the second arrested.

Q Well, who was the first man? A Well, I see that man Dieli arrested. I didn't know his name. Just I see his name in the police court. He arrested him, and he put him in the

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hall.

Q Well, who was put in the hall first? A The policeman put him in the hall. He aint got no uniform, you know.

Q (Question repeated) A I see Dieli put in the hall first.

Q Did you see the man when he put Dieli in the hall?

A (No answer)

MR. MANLEY: May we have this in Italian? I think it will be more satisfactory to both sides.

THE COURT: Yes.

(The question is repeated through the Interpreter).

A I didn't see him.

Q You didn't see anybody put Dieli in the hall? A No.

Q Now, did you see Dieli on the street, before anybody put him in the hall? A No.

Q Where was Dieli when you saw him first? A In the hallway.

Q Well, then, you saw him in the hallway? A Yes, sir.

Q But you have no idea of how he got there? A I don't know.

Q Well, who was the second man put in the hallway?

A I am.

Q You are? A Yes, sir.

Q Now, where was the man standing or walking that put you in the hallway, when you started to light the cigarette?

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A Near the door.

Q Did he come out of the door, and grab hold of you?

A No; standing there at the door with a revolver in his hand.

Q Did you see him standing there with the revolver in his hand at the time you started to light the cigarette? A He put the pistol right to my mouth.

Q (Question repeated) A At the same instant I was lighting the cigarette, I saw the revolver in his hand.

Q Now, when you stopped to light that cigarette, how close were you to the door where the man was standing with his revolver? A About one pace.

Q Was there anybody else standing by that door besides the man with the revolver? A More than 20 or 30 people, between men and women.

Q Well, did you stop there for the purpose of lighting your cigarette or for the purpose of seeing what was going on? A To light the cigarette.

Q Then you asked one of the 20 people who were standing near the door for a match to light the cigarette? A No; it was a passerby that I stopped to light the cigarette by.

Q And then the man came from the hall, took hold of you and put you in the hall? A Yes, sir.

Q Did anybody say anything to that man before he put you in the hall? A No, nobody.

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Q You didn't hear anybody say, "That's the man that did it," or anything of that sort? A No, sir.

Q Well, then, when you got into the hall you saw Dieli in there? A Yes, sir.

Q You were the second man in there? A Yes, sir.

Q And did Scollo come in after that? A Yes, just in a minute.

Q Now, you hadn't seen Scollo there before you went into the hallway; had you? A No, I didn't see no Scollo.

Q Now, you say that you had 25 cents? A Yes, sir.

Q And you say that Dieli had ten? A Yes, sir.

Q And Scollo had two dollars? A Yes, sir.

Q Did you see the officer when he pulled the ten cents out of Dieli's pocket? A Not the policeman. He said himself, "I've got ten cents," and I said, "I've got 25 cents", and Scollo said, "I've got two dollars." The officer searched the pockets for a knife or pistol, and he said, "You got a knife?" And I said, "No, no knife, only ten cents I've got in my pocket." Dieli said that, and I said, "I've got a quarter," and Scollo said, "I've got two dollars."

Q Then, so far as you know, Scollo did make this threat at the complaining witness, on the night of the 12th of December, at least you don't know whether he did or not; do you?  
A No, I don't know anything about that.

Q And you don't know but that Dieli was there, thenight

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before, the night of the 12th, and made that threat to the complaining witness Pironeo; do you? A No, I don't know nothing about it. I wasn't there. I don't know.

Q Where did you work then? A 375 West 127th Street.

Q East or West? A West.

Q How long had you worked there? A One month.

Q What is the name of the place, the boss? A Carmelo Cullizia.

Q What is his business? A Shoemaker.

Q Does he repair shoes? A Yes, sir.

Q In the basement? A No, the ground floor.

Q Level with the sidewalk? A Yes, sir.

Q And you say that, on the next day, the 13th, you worked half a day? A Yes, sir. It's a holiday, you know, Santa Lucia, and I worked half a day.

Q Now, when did you leave your place of business on the 12th, Tuesday; what time did you quit work? A Nine o'clock, half past eight to nine o'clock, something like that.

Q At night? A Yes, sir, at night.

Q Did he hire anybody else, did anybody else work for him on the 12th? A No, sir.

Q Why did you live so far downtown if you worked on 127th Street? A What do you say?

(Question repeated through the Interpreter).

A Because I don't know anybody.

Q How did you happen to go to 97 Allen Street to live?

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A I saw the advertisement in the paper.

Q On what floor did you live there? A Fourth floor.

Q Is that the top floor? A I think it is the top floor.

Q Well, is the next place the roof, the next place above it? A Yes, sir.

Q How many apartments are there on that floor? A Four on each floor.

Q What was the name of the persons with whom you lived at that time?

THE COURT: I do not think we had better go too far into this.

MR. MANLEY: I'm not going to go very much farther. Two of these defendants live in the same house, but say they don't know each other.

THE COURT: I don't think it is necessary to go much further into this matter.

A I can't tell you, they are Hebrews and I can't tell you the name.

BY MR. MANLEY:

Q Can't you tell me their first name, even? A Only the wife's name.

Q What's the wife's name? A Elsie.

Q Are you sure her first name is Elsie? A Yes, sir, but I don't know the second name or the husband's name, even.

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Q Where does she work? A Well, you know, she has got a big belly, you know (illustrating-- she's got a baby, you know.

Q I don't care about her baby. Now, didn't you hear Dieli say that the name of his girl, that he used to wait for, was Elsie? A Well, you know, there is plenty ladies with that name of Elsie.

Q (Question repeated) A Yes, I heard it.

C A R M E L O C U E L L I Z I A, of 375 West 126th Street, a witness called on behalf of the defense, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. SCHUMACHER:

Q Is it 127th or 126th street? A 126th Street.

Q Are you a cousin of the defendant Arcardi? A He is not a cousin of mine. He is a distant relative of my wife.

Q What is your business? A Shoemaker.

Q And your place of business is 375 West 126th Street?

A Yes, sir.

Q Did this defendant Arcardi ever work for you? A Yes, sir.

Q During the month of December, 1911? A Yes, sir.

Q When did he stop working for you? A Seven in the

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morning, nine at night.

Q (Question repeated) A On the 13th of December, half a day he worked that day, because it was a holiday.

Q Did he work for you on the 12th of December? A Yes, sir.

Q What time did he leave your house, that day? A At nine o'clock.

Q What time did he start working, that day? A Seven o'clock.

Q So that he worked from seven o'clock in the morning until nine o'clock in the evening? A Yes, sir.

Q And you are sure he worked for you on the 12th? A Yes, half a day on the 13th.

Q But did he work all day of the 12th? A Yes; all day of the 12th.

Q What is his general reputation?

MR. HANLEY: Well, ask him if he knows it, first. Put it properly, and I won't object.

BY MR. SCHUMACHER:

Q Do you know what his reputation in the community is for honesty, etcetera? A As for myself, I find him honest.

THE COURT: You might find out if he knows others who know the defendant. You might lay the foundation for that question. Does he know other people that know him?

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BY MR. SCHUMACHER:

Q Do you know other people that know him? A No.

MR. SCHUMACHER: That's all.

CROSS EXAMINATION BY MR. MANLEY:

Q You say that he is related to your wife. What is the relationship? A About the fifth generation; related on the fifth generation.

Q How long have you known Arcardi? A Two years I am in America and two years I know him.

Q Where did you live in December last? A At my own business.

Q That is, at 375 West 126th street? A Yes, sir.

Q You live there with your family? A Just myself. I've got my family away.

Q Your wife then is in Italy? A Yes, sir.

Q Did you know the defendant in Italy? A Yes, I knew him in Italy.

Q Where did he live? Was it in Sicily? A Yes.

Q What is the name of the province in Sicily? A The Province of Cattagna.

Q What is the name of the town? A Licodeo.

Q Now, how long had he worked for you before December 13th, when he was arrested? A One month.

Q When did he begin to work for you? A I think it was

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about November.

Q How long had you seen him in New York before he started to work for you? A I didn't see him in New York.

Q Didn't you see him in New York at any time before he started to work for you in New York? A No, because I am in another part of the city.

Q Did you ever invite him to live up at the place where you live, so that he wouldn't have so far to go from his work at night? A No.

Q When did you find out that he had been arrested?

A One or two weeks, because ----

Q It was one or two weeks after he was arrested that you found out anything about it; is that it? A One or two weeks afterwards.

Q Now, he went to work every morning at seven; did he?

A Yes, sir.

Q And quit every night at nine? A Sometimes eight or nine or ten. When there is much work, he is later.

Q It depended upon the amount of work you were doing; is that right? A Yes, sir.

Q Did he always, or nearly always, get there at seven o'clock in the morning? A Yes, sir.

Q And he nearly always quit at nine o'clock at night?

A Yes, sir.

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Q And the reason why you think he started work at seven o'clock in the morning, on the 12th, and quit at nine, was because he usually kept those hours; is that it? A Yes, because that is the general time.

Q Yes, I don't suppose you kept any book of the time or anything of that sort; did you? A No.

RE DIRECT EXAMINATION BY MR. SCHUMACHER:

Q Just one question. But you are sure that he was at your place of business between five and eight on the evening of the 12th?

MR. HANLEY: Well, he has testified to that.

A Yes, sir.

MR. SCHUMACHER: That's all. That's the defendants' case. Now, I renew my motion, made at the close of the People's case, on the same grounds.

THE COURT: Motion denied.

MR. SCHUMACHER: Exception.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case until to-morrow morning, February 28th, 1912).

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TRIAL RESUMED.

New York, February 28th, 1912.

MR. MANLEY: If your Honor please, I would like to recall the defendant Dieli, just for a question or two.

THE COURT: you may do so.

V I N C E N Z O D I E L I, being recalled by the District Attorney for further cross examination, and being examined through the same Official Interpreter, testified as follows:

CROSS EXAMINATION CONTINUED BY MR. MANLEY:

Q Upon what floor of the premises 97 Allen street did you live, prior to the time of your arrest? A First floor.

Q With whom did you live? A With an Austrian.

Q What was the name? A Carmela.

Q Is that the first or the last name? A Carmela is the first name. Jordo, I think, the last name is.

Q An Italian? A No; he is from Nice, France. She has a Hebrew husband.

Q Now, just think if you can't remember the name? A I can't remember it any more than I have.

Q What was the business of the husband? A He used to be in the pickle business, pickled peppers.

Q Now, wasn't the name Siegel? A I don't remember.

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Q Did it sound like Siegel? A Yes, sir.

Q Wasn't it Siegel? A I don't remember.

Q Now, wasn't the lady, at about the time you were arrested, on the 18th, wasn't the lady pregnant? A No.

MR. SCHUMACHER: No questions.

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## REBUTTAL.

LOUIS TRABUCCI, being recalled by the District Attorney, testified as follows:

## DIRECT EXAMINATION BY MR. MANLEY:

Q Now, Mr. Trabucci, you have already testified that on the evening of the 13th, you were at the premises of Warschawsky & Cohen? A Yes, sir.

Q And you have already testified that, when the two witnesses, Pironeo and Spinosa came out from those premises, the premises of that firm, you were following behind, and when the two witnesses came out, did they stay on the westerly side of Worcester Street or cross over on the easterly side? A They crossed from the westerly to the easterly side.

Q Now, when they crossed over, did they go straight over east or diagonally over? A Diagonally.

Q And when they went diagonally, did they go up towards Bleeker Street, up toward the north, or down toward Houston Street? A Toward Houston Street, south.

Q Now, when you yourself came out from that place of business behind the two witnesses that I have mentioned, you have testified that you saw the defendants? A Yes, sir.

Q When was it you first saw them? A As soon as I reached the street door leading to the premises 179-181 Worcester Street.

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Q Then, as I understand it, when you first saw them, you were at that time on the west side of Worcester street?

A Yes, sir, leaving the building.

Q Now, will you describe a little more exactly then you did before, where they were? A They were standing directly across the street in front of a public school.

Q That is, on the east side of Worcester street?

A Yes, sir.

Q What were they standing on; on the street or the sidewalk? A On the sidewalk, up against a railing.

Q How close together were they at that time when you saw them? A They were alongside of one another.

Q How close together? A Oh, they may have been an inch or two apart, close together.

Q Now, did you see those three defendants move, that is, begin to walk, while the two witnesses were in the street, or did you see them again, afterwards? A The complaining witness and the witness were within a few feet of the easterly side of Worcester Street, the sidewalk, and then the three defendants started down after them, in that direction.

Q And how far did they walk before they came right up to where the two witnesses were, in feet? A Oh, they have have walked 30 or 40 feet.

Q How close were the three defendants walking together before they came up to the two witnesses? A They walked

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together, right close together.

Q Now, will you describe the positions of the three defendants, with reference to the two witnesses, when the three defendants got up with the witnesses? A The two witnesses were in the center, and two of the defendants were on one side, and one on the other.

Q Now, as I understand it, you were at that time walking behind? A Yes, sir; probably seven or eight or ten feet.

Q Now, can you tell whether or not the three defendants, or any one of them, were in conversation with the witnesses, or either of them? A They appeared to be in conversation, but what they said I couldn't hear.

Q Well, now, as I understand it from your testimony that you gave, the other day, that, as you were in that position, the witness Pironeo turned around and looked at you? A He looked in my direction, yes.

Q And then you have testified, as I recall the testimony, that the three defendants turned around and looked in your direction? A Yes, sir.

Q And then then you placed them under arrest? A Yes, sir.

Q Now, at the time when you came up and placed the three defendants under arrest, was there anyone at that spot except the three defendants and the two witnesses? A No, sir, not to my knowledge.

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Q And then, as I understand it, you immediately put the three defendants into a hallway? A I ordered them into a hallway, yes, which was almost ---

Q And I think you testified, the other day, as I recall your testimony, that the witness Pironeo was asked if they were the three men, and he answered that they were? A Yes, sir.

CROSS EXAMINATION BY MR. SCHUECHER:

Q What time of the day was this, Mr. Officer? A Oh, I presume between 5 and 6:10 in the evening.

Q Now, weren't there a great many people around that neighborhood around the street? A There were some people.

Q That's a sort of a factory district; isn't it?  
A Yes, sir.

Q Weren't the people flowing out from these factories on all sides? A There were some people.

Q And still they weren't any people near these three defendants at the time they were talking with the complaining witnesses? A There were none between me and the defendants, from the time I ----

Q Did you see anybody near them at the time you arrested them, at the very instant that you placed them under arrest?

A Well, there may have been people there; I didn't notice. I had three people to take care of. I couldn't notice how

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many people were around me, or if there were any around me.

MR. SCHUMACHER: That's all.

MR. MANLEY: That's all.

M A X P O L O K O F F, 112 Forsythe Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q Now, Mr. Polokoff, you are employed by the District Attorney's Office as a process server? A Yes, sir.

Q That is, to serve subpoenas and make investigations in the cases; are you? A Yes, sir.

Q Did you, last night, at my direction go to the premises 97 Allen Street? A Yes, sir.

Q Did you go to the top floor of those premises? A Yes, sir.

Q That is what floor in that house? A That's four flights up.

Q Four flights up from the street? A Yes, sir.

Q Did you make certain inquiries in that house? A Yes, sir, I did.

Q Did you see a lady on the top floor and ask her certain questions? A Yes, sir.

Q And the name of that lady was what? A Mrs. Siegel.

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Q Now, did you ask her --- question withdrawn. What did you discover to be the physical condition of Mrs. Siegel?

A She gave birth to a child, two days ago.

Q Two days ago? A Yes, sir.

Q And I had given you directions to subpoena her; had I not? A Yes, sir.

Q And did you discover that her condition was such, owing to the fact that she had given birth to a child two days ago, that she could not come to court? A Yes, sir.

Q Now, did you question her --- just answer this yes or no --- as to whether or not two Italians had lived in her house, in her rooms, about two months ago? A Yes, sir.

Q Now, just answer this yes or no. Did you receive certain information from her upon that subject? A Yes, sir.

MR. MANLEY: That's all I can ask him.

MR. SCHMACHET: That's all. No questions.

MR. MANLEY: The People rest.

MR. SCHMACHET: The Defense rests, your Honor.

(Mr. Schmacher then summed up for the Defense and Mr. Manley closed the case for the People).

(The Court then charged the jury).

(The jury found the defendants guilty as charged).

MR. SCHMACHET: Will your Honor permit me to reserve the right to make any motions until the day of sentence?

THE COURT: Yes. To what day do you want them

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remanded?

MR. SCHUMACHER: Well, say a week from to-day.

THE COURT: That will be the 6th, one week from to-day?

MR. SCHUMACHER: yes, sir, March 6th.

THE COURT: Yes, they may be remanded until that day.

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