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June 8th, 1914.

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June 9th, 1914.

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CASE 1903

COURT OF GENERAL SESSIONS OF THE PEACE,  
City and County of New York, Part **V**,  
April Term Continued.

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

NICHOLAS ACHILLE,  
Alias Coco; impleaded with Louis  
Goldstein; Alfred Lehman, alias  
Battling Schmidt; and Paul De  
Antonio, alias Paul Lentore.

Before:

HON. CHARLES C. NOTT, J.,

And a Jury.

**2331**

New York, June 8th, 1914.

Indicted for murder in the first degree.

Indictment filed April 7, 1914.

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

For the People: W. H. L. EDWARDS, ESQ., Assistant Dis-  
trict Attorney.

For Defendant: WILLARD H. OLMSTEAD and JAMES E. BRANDE, ESQs.

THE CLERK: If you intend to challenge an individual  
juror, you must do so when he appears and before he is  
sworn. Do you waive the further giving of this notice?

MR. BRANDE: Yes, we waive that.

The veniremen are examined on the voir dire.

A jury is duly impaneled and sworn.

THE COURT: Gentlemen of the jury, I am obliged by  
the law on each side of the Court to caution and  
remind the jury not to form or express any opinion as

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to the guilt or innocence of the defendant, until the case  
is finally submitted to the jury. The law compels that to  
be done for the purpose of endeavoring to have the jury  
not  
hold their judgment in suspension, merely to exercise their  
memory on the facts but to hold their judgment suspense,  
so the jurors will not go into their jury rooms as parti-  
sans, trying to enforce their views on their fellow jurors,  
but so that they will go into the jury room with their minds  
open so as to discuss the case dispassionately and agree on  
a verdict that is fair to both sides.

The law compels me to repeat that caution at every  
adjournment of the court, and sometimes the mere repetition  
makes it seem as though it were a perfunctory matter and  
I thereby make this explanation of what the law endeavors  
to obtain by jurors having had this admonition.

We will now take a recess until 2 o'clock.

After Recess, Trial Resumed.

OPENING ADDRESS OF MR. EDWARDS TO THE PEOPLE

IN BEHALF OF THE PEOPLE.

MR. EDWARDS: May it please your Honor, Mr. Foreman,  
and gentlemen of the jury: On the 18th day of August 1912,  
which was a Sunday, Officer Boeger of the 15th Precinct  
was called to the premises 54 Stanton street, in the base-  
ment where a Chinese laundryman by the name of Charles Lem  
kept a laundry. He went to those premises and he will

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describe to you the conditions he found them in at that time. He found the proprietor, Charles Lem, as I understand, lying on the floor, suffering from a fractured skull. He called for an ambulance from Gouverneur Hospital; that call was responded to by Dr. Graham of that hospital, and an ambulance. The Chinaman was still living when the doctor arrived, and he was taken in the ambulance to Gouverneur Hospital, where he died that same day. And Dr. McAllister, who was one of the Coroner's Physicians in this county, performed an autopsy on him that day, and he will tell you the conditions he found and what, in his opinion, was the cause of death.

The People will then show you that on August 17th, on saturday, the defendant, Achille, who sits here on trial, went to the defendant Lehman, who is a witness that the people will call here to testify in this case, and spoke to him: That he knew where some easy money could be obtained.

Lehman was a German with considerable courage and a good deal of initiative in this sort of thing, as he will tell you himself. The defendant told him of the deceased, Charles Lem, and told him that he had been informed that he had a quantity of money concealed in his premises.

They agreed to meet the next morning and go down to

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Iem's place and rob him of that money. The next morning they met according to appointment, on Sunday morning, between eight thirty and nine and they met another defendant, Louis Goldstein and he joined them. Then they got another, a young fellow by the name, of De Antonio, and took him with them.

On the way to Iem's premises they discussed the part that would be taken by each individual. The work assigned to De Antonio, the young Italian boy, was to keep watch on the sidewalk, and, if my recollection serves me, throw a stone against the window, if he saw any "cops" coming.

The defendant Achille, this defendant here on trial, went with them to the premises and went, as I understand it, down on the stairway leading from the sidewalk down to the basement. And Goldstein and Lehman, one armed with a piece of pipe, and one armed with a billy, went into the deceased's laundry, and there Lehman, I think it was, handed him a shirt to be laundered, as a "blind"; and as he stooped to put it under the counter he was struck by one of these two defendants, and as he straightened up he was struck by the other.

One of the two -- I do not attempt to give you the accurate details, because they will come out from the witnesses themselves, I am just giving you an outline of.

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the case --- took charge of the Chinaman, while the other one went into one of the inner rooms where his money was supposed to be concealed, to search for it.

Shortly after, just how long I don't know, the defendant Achille came down into the laundry, and as I understand it started to search behind the counter, in the cash drawer for any money that might be there. The defendant did not find any money. Something startled them and they all three ran out.

We will show you of the arrest of the defendant, what took place -- I think it was on October 25, 1913 -- and we will show you what was said by this defendant at the time of his arrest, what he said to the officer who placed him under arrest, how he was taken to a hospital here in New York, where the young Italian boy was, and there identified by him as the boy he had mentioned in statements made by him before as "Coco". We will then show you that after that identification he was interviewed by Mr. Skinner, of the District Attorney's Homicide Bureau, in company with a stenographer, and that after he was told that he need make no statement unless he wished he did elect to make a statement and did tell the District Attorney what occurred there that morning, and that statement will be offered in evidence here and I assume that it will be admitted, and that you will have the details of just

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what the defendant himself said about his part and his participation in this crime, in addition to the other facts which will be proved.

Officer Boeger.

H E N R Y C. B O E G E R (15th Precinct) called as a witness in behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are an officer of the Municipal Police Force of this City? A Yes, sir.

Q Attached to what Precinct? A 15th.

Q And you were in the 15th precinct in August 1912? A Yes.

Q You know the location of the premises 54 Stanton street?

A Yes, sir.

Q Those are in that Precinct, are they not? A Yes, sir.

Q And also in the county of New York? A Yes, sir.

Q Did you go to those premises 54 Stanton street on the 18th day of August, 1912? A Yes, sir.

Q Was that a Sunday or what day of the week was it? A Sunday yes, sir.

Q What time of day did you go there? A About 11 a. m.

Q You did go there, you say on that morning? A Yes, sir.

Q Whereabouts in those premises did you go? A Down in the laundry, about five steps from the street, from the sidewalk.

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Q In the basement of the building? A Yes, sir.

Q Was the door entrance to that located up there towards the street or was it in the rear of the building? A Yes, sir, up there towards the street.

Q Was any one with you? A Well, there were several policemen there, yes, sir.

Q When you got into those premises you entered the main room of the laundry, did you? A Yes, sir.

Q Just describe to this jury what you saw when you entered that room? A On entering this room I saw the Chinaman, Charlie Lem bleeding from a scalp wound ---

MR. BRANDE: I object to "I saw a Chinaman, Charlie Lem." He didn't know him yet.

THE COURT: Well, he can give the name he knew him by.

MR. BRANDE: Will your Honor permit me?

THE COURT: Yes.

BY MR. BRANDE:

Q Did you know this was Charlie Lem? A Well, he told me that was his name, Charlie Lem.

BY MR. EDWARDS:

Q Just go on with your description? A Upon entering there I seen a scalp wound on the top of his head.

Q Must indicate about where it was on the top of the head?

A Right from the back of his head all the way to the front here; the length of the scalp wound was about eight inches, and the minute I saw that I went to the drug store on the corner

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and got an ambulance for him, and Dr. Graham responded from Gouverneur Hospital and bandaged his head up and said he was suffering from a fractured skull.

Q Don't tell us what he said ---

BY THE COURT:

Q Where was this Chinaman when you saw him? A 54 Stanton street.

Q On the floor or sitting up? A No, he was standing up, at that time.

BY MR. EDWARDS:

Q Just describe to us, if you will, how that room of the laundry in which you found him, was arranged? A Well, he had a laundry there and there is no railing in there, and in the back of it he had a bunk.

Q Was there any counter of any kind there? A There was a counter as soon as you came in the laundry, and a railing.

Q Was the counter across, at right angles to the door? A No, it went through the room lengthwise, through the store.

Q Crosswise, or lengthwise of the door? A Lengthwise.

Q From front to the rear? A From the front to the rear.

Q Was that on the right-hand or left-hand side? A That was on the right-hand side as you entered.

Q Did you observe anything else about the Chinaman, or about the room? A Yes, the blood was on the floor, and the piece of pipe was lying there, and a coat.

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Q There was a coat and piece of pipe lying there? A Yes, sir.

Q What sort of a piece of pipe? A About three quarters of an inch, and about eighteen inches long, iron pipe.

Q How much blood was there on the floor? A Well, he was covered from the top of his head almost down to his body.

Q Down to his waist, you mean? You are indicating the waist.

A Down to his waist, and there was blood all over the floor and on the paper that was laying on the floor.

Q When Dr. Graham came and bandaged his head what else was done with the ghinaman? A He was removed to the ambulance outside the door and taken to Gouverneur Hospital.

Q You didn't go with him to the hospital, did you? A Detective McGrath, I think, jumped on the ambulance, and I think he went all the way to the hospital.

Q What did the premises consist of, besides this one room that was the laundry? A He had a stove in the rear, and as you come in there in the middle of the room about, in the middle of the store, you could see from the front of the store, all the way to the rear.

Q Was there just one room? A One long room, yes, sir.

Q Was there any partition there at all? A Only that he had a bunk on the left side, about half way in as you walk in the store.

Q What I am trying to get at is whether there was anything to obstruct the view of the whole room; as you entered the door could you see everything in the room, or was part of it out off?

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A He had a small partition going about half way across the room.

Q And it was behind that partition the bunk was? A Yes; up against the wall on the left side.

Q Did you make any search of those premises? A Yes, I looked all around and couldn't see any money or anything of that kind, but I seen this cash drawer. He moved that from the front of the store into the back, on the counter.

Q The cash drawer had been pulled out? A It was pulled out and there was \$4.85 in it, and he brought that from the front, put it onto the back and left it on the counter there.

Q Was there anything disturbed in the room? A Well, the bunk --

MR. BRANDE: I object to "anything disturbed in the room." How does this officer know what the condition of the room was?

THE COURT: Just let him describe what he found the condition to be.

Q Go on and describe anything else that you observed in the room? A The bunk he was supposed to sleep in, that was thrown away up, I don't know who threw that around, I wasn't there.

Q Just told us what you saw? A And the pipe was laying on the floor; an eighteen inch iron pipe, and the coat.

BY THE COURT:

Q What part of the room was the iron pipe in? A Right in front of his desk.

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BY MR. EDWARDS:

Q Where was it with reference to this blood that you saw on the floor? A Right in back of the desk where he sat.

Q The blood was there, and how near to the blood was the pipe?

A Laying right in the blood.

BY THE COURT:

Q Was the desk in the front part of the room, or the rear part? A In the centre part of the store.

BY MR. EDWARDS:

Q Where was that desk with respect to that counter you told us about? A At the end of the counter as you walk in, about twenty foot from the door.

Q And the desk was at the far end of the counter? A No, - at the end of that counter.

Q The further end, away from the door, or towards the door?

A The furthest end away from the door.

Q What did you do, Officer, with respect to the premises when you left? A \$4.85 I put that in an envelope, and the key and a piece of pipe and the coat; I brought them to the station house; and locked the door with the key we found there, locked the front door.

Q How long did you remain there before you left? A I should judge about half an hour.

Q Did you leave any one else in the premises when you came away? A No, we locked the door.

Q Was any search of the premises made by any of the



other persons who left with you, before you left? A Detective Brenner was, I think, the only one there with me at that time.

Q Did he make any further search than the one you have described? A I don't know. They might have went back there after.

Q Did he go back with you? A No.

Q Did you go back with him, if he did go back? A No.

Q Where is Detective Brenner now? A He is dead now. About a year or so.

Q What did you do with this pipe and this coat when you took it away from the premises? A I brought it to the detectives, into the station house; gave them the pipe and the coat.

Q You gave it to the detectives attached to your precinct?

A Yes, sir.

Q Who received it from you? A I couldn't say.

Q Don't you remember who you gave it to? A I left it there with the detectives that were sitting at the desk; I don't remember what detective it was.

Q When did you next see it after you left it there? A I didn't see it after that.

Q Was there any hearing in the Coroner's court? A No, sir.

Q That you attended? A No, sir.

Q Did you ever see that pipe and coat again? A No, sir.

Q Did you ever see anybody else have it? A I seen detectives having it that night.

Q What detectives? A But I couldn't remember what detective

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it was.

Q Was McGrath one of them?

MR. BRANDE: I object to the leading, because the witness has answered four times he didn't know which detective.

THE COURT: Yes. Objection sustained.

Q Can you recollect the name of any detective that you saw with that pipe? A No, sir.

Q Did you mark it in any way when you took it there? A No sir, I didn't mark it. I put a tag on the coat, and put a tag on the piece of pipe.

Q Did you put any marks on the tag? A No; just put my name onto it.

Q Then you did mark them? You marked the tags on the coat and pipe? A Yes, sir, I just put tags on the coat and pipe.

Q And you never saw them afterwards? A No, sir.

CROSS EXAMINATION BY MR. BRANDE:

Q You say that you did not appear in the Coroner's Court?

A No, sir.

Q You were not called as a witness? A No, sir.

Q You say that there was \$4.85 in the drawer? A \$4.85, yes.

Q And that the policeman took the drawer himself, pulled it out? A I don't know who took the drawer. I found the drawer in the back, at the desk. In the back, on the counter.

Q The drawer was in the back of the counter? A Yes, sir,

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taken from the front of the store to the rear.

Q There was a counter there, was there not? A Yes, sir.

Q In the counter there was a drawer? A Yes, sir.

Q Was the drawer in the counter when you saw it? A No, sir.

Q Where was it? A In the back of the store.

Q Taken out of the counter to the back of the store? A  
Yes, sir.

Q When you found that drawer you say that drawer contained  
\$4.85? A Yes, sir, in the drawer.

Q Was it in bills or change? A In change.

Q All change? A In change.

Q No money upon the floor? A No money upon the floor.

Q You don't know this defendant? A No, sir.

Q Never saw him before in your life? A No, sir.

MR. EDWARDS: Will Your Honor permit me to call Mr.  
McAllister, before the connecting witness, who has not  
arrived? He is in Jersey and has been telephoned for,  
and was to be here at 2 o'clock.

THE COURT: Yes.

D R. J O H N M c A L L I S T E R, called as a witness in behalf  
of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

(The witness states his address to be 43 West 48th street.)

Q You are a practicing physician and surgeon in this city?

A I am.

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Q And have been for how long? A I graduated about thirty-<sup>15</sup>  
five years ago.

Q Are you one of the Coroner's physicians in this city? A  
I was, yes, sir.

Q Did you hold that position in August, 1912? A Yes, sir.

Q Do you recollect what you did on the 18th day of August  
of that year? A In relation to this particular case?

Q Yes. A I do.

Q Where did you go on that day ? A Down to Gouverneur  
Hospital.

Q About what time did you go there? A I think it was in  
the evening, about between six and half past seven or eight  
o'clock.

Q Did you perform an autopsy there? A I did.

Q Who was it who identified the body on which you performed  
the autopsy?

MR. BRANDE: I object to the form of the question.

THE COURT: On what ground?

MR. BRANDE: Upon the ground that it is i proper  
who identified the body. Was the body identified, first.

BY THE COURT:

Q Who, if anybody, identified the body? A Dr. Graham,  
House Surgeon at the Hospital.

BY MR. EDWARDS:

Q Could you tell from the appearance of the body what  
nationality the man was? A I could.

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Q What was he? A A Chinese.

Q Did you perform an autopsy on that body? A I did.

Q Will you tell the jury what you found? A You have my paper there, will you kindly let me see it? (Now continuing after receiving paper from Mr. Edwards) I found in this case ---

MR. BRANDE: I object to the reading.

THE WITNESS: I am not reading it at all. It is not there.

THE COURT: Just read it over and if it refreshes your recollection, then you can testify.

MR. BRANDE: If those are the papers that were submitted to the District Attorney from the Coroner's Court if they are going to do this I want to offer them all in evidence for the purpose of acquainting the jury with the contents, all.

THE WITNESS: I don't even need them. (Throwing papers back on Mr. Edwards's table.) I only wanted to refresh my memory. I don't need them.

MR. BRANDE: Unless Mr. Edwards objects I will offer them in evidence.

THE COURT: Not, now, this is not the time.

A (Witness continuing) I found that this Chinese died of compound, comminuted fracture of the skull. I found the cause of death was shock and hemorrhage superinduced by that fracture.

Q Over what area did the hemorrhage extend, Doctor? A The whole frontal --- the parietal bone and part of the occipital

was crushed in.

Q Was the hemorrhage sufficiently large to cause any pressure?

A That is what caused his death, the pressure.

BY THE COURT:

Q What is a compound fracture? A A compound fracture is where the skin is incised down to the bone itself.

BY MR. EDWARDS:

Q So the bone can be seen through the break? A The comminuted fracture is where it is shattered into more than two pieces.

Q How many breaks were there in the skull? A The whole skull was crushed in. I didn't count the pieces. The whole side was smashed in.

Q Was the appearance such as to lead you to form any opinion as to what sort of an instrument the wound had been caused with? A Yes.

Q Can you state with reasonable certainty from your experience in such cases the character of weapon that was used in this, in your opinion? A It might be some heavy instrument.

Q Could you express an opinion as to whether it was sharp or blunt? A A blunt instrument can also make an incised wound over bone.

Q That is true. I realize that. You could not form an opinion as to that? A No, I could not.

CROSS EXAMINATION BY MR. BRANDE:

Q It might have been from a fall? A No, sir, because he

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couldn't fall, unless from a ten story window ---

Q Suppose a man was to fall up against that pipe there (indicating the northeasterly corner of court room) wouldn't it cause the same kind of a wound? A Not on your life.

Q Not on my life? A No, sir, because it wouldn't. It necessitates an injury there with force and there is no man can fall with sufficient force against a pipe.

Q How long have you been a physician? A Thirty-five years.

Q And you mean to tell this court and this jury that a man by falling cannot crack his skull? A You said from here to there. (Pointing to pipe in northeast corner of court room) Yes.

Q All right, make it to the door. A But not that kind of an injury, no, sir.

Q Why not?

THE COURT: Please, both of you do not get excited.

You can make yourself heard perfectly if you speak in a lower tone.

A No, you couldn't do it.

Q Did you ever have a case where a skull was cracked by a fall? A Yes, sir, lots of them.

Q Which one did you have? A The individual name? I don't remember names, but I had over 2,000 post mortems, yes, sir.

Q And you mean to tell this jury that in this court --- you used the words "this particular case"? A This particular case, yes.

Q You happened to characterize it because it was a Chinaman?

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A. Certainly, he was a "Chink", and it occurred on this particular time, and on Sunday, and I was called down, and it was the only "Chink" I had at that time.

Q It was the only "Chink" you had at that time? A Yes.

Q Did you have any more "Chinks"? A Yes, we have a lot of them at the Morgue, and he was outside, at Gouverneur Hospital.

Q And it is impossible that that "Chink" could have gotten that wound on his head by a fall? A Absolutely.

Q That you will stake your testimony on? A Absolutely.

Q Might it have been a cleaver -- one of those butcher knives?

A No, that would have made a straight, incised wound, and would not crush the skull in that manner.

Q So you say that you are absolutely positive --- A Absolutely ---

Q Well, now, you don't know what I am going to ask, but you are absolutely positive? A Well, on that case. I know about that case.

Q Don't be absolutely positive about something that you don't know what I am going to ask you? A Pardon me.

BY THE COURT:

Q Where did the wound extend from? A The whole front and side was crushed in.

Q How far back? A Back to the occipital. This is the frontal bone (indicating).

Q From the frontal bone to the occipital bone? A Yes, the whole front was also in.

Q When you say in your opinion it could not have been caused

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Q When you say in your opinion it could not have been caused by an ordinary fall, you have taken into consideration the amount of damage done to the bone and the area over which it extended? A Exactly.

BY MR. BRANDE:

Q Might it have been from the fall of a bottle from a window? A Yes, we had those -- that would produce more of an indentation at one particular part than spread over the surface.

Q Now that you are so positive as to how this wound was inflicted, will you kindly explain to the jury how it could have been inflicted? A In my opinion it was inflicted by some individual who went at the Chinese with some instrument and delivered it with the utmost force.

Q You heard that said by some one upstairs in the District Attorney's office, isn't that a fact? A I beg your pardon, not on your life.

Q Now, will you let my life alone? A I never heard that in the District Attorney's office.

Q How many times have you been up in the District Attorney's Office?

THE COURT: You mean in connection with this case?

Q In connection with this case. A I have never been there but once before the Grand Jury.

Q You mean to tell me that you were not questioned by the District Attorney in this case outside of appearing before the Grand Jury? A No, sir, never. Ask him.

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Q Never spoke to a police officer? A Never. Never saw this man to even talk with him about the case.

Q Outside of describing this body that you say you performed this autopsy on as a "Chink", you don't know who he is? A Not the slightest.

Q From the appearance of the wound, Doctor, had any attempt been made by you, or any other doctor, to perform an operation to see whether something could have been done for the "Chink"?

A It had been sewed up. I had nothing to do with that.

Q When you saw the wound it was sewed up? A Just a little. I think it was sewed up.

Q It was sewed up? A Just a little. I had nothing to do with that.

Q When did you see this? A I saw this man between half past six and seven on the evening of the day I held the post mortem.

Q He was dead then? A Absolutely.

Q Absolutely? A Positive.

Q No doubt about it? A Not the slightest.

THE COURT: You could not hold a post mortem before he died.

THE WITNESS: Not very well.

MR. BRANDE: But he said "absolutely."

A (Continuing) The Coroner's Physician does not hold post mortems on the living.

Q And you say that the wound was sewed? A Sewed up.

Q So you didn't know whether an operation had been performed or not? A Why, there had not been any operation performed. I took his skull cap off, I dissected the scalp off, and the bones were as the fracture resulted.

You say when you saw this body and noticed the wound, the wound was sewed up. Now, here is a dead body, you don't know what had been done there to that body before you saw him-- in his lifetime, do you? A Hardly, no, I do not.

So you don't know how that wound came about, whether by reason of the doctor cutting it a little more or less for the purpose of performing an operation of some kind? A Are you talking of the external wound, or a fracture of the skull? I am talking of the fracture of the skull, that is what killed the individual, not the cut in the scalp.

Q So you differentiate now between the skull and the scalp?

A Did you hear what I said, that this patient died from shock and hemorrhage, due to a compound fracture of the skull? It would not be a compound fracture unless the skin were cut.

Q Do you always get excited when you perform an autopsy?

A Not on your tintype.

THE COURT: Doctor, please do not use that language here in court.

Q You don't know what kind of wounds you will find if you get excited that way when you perform an autopsy! You say that this wound was sewed? A Yes, sir.



Q Did you remove the stitches? A I made an incision transversely across, which had nothing to do with the stitches, and pulled the scalp down fore and aft.

Q You simply came to your own conclusions, cut with your knife around and said "He is dead"? A Oh, no; but as a preliminary to an autopsy, it is necessary to make an incision from one ear to the other.

Q Are you still connected with the Coroner's Court? A Off and on, yes, sir.

Q What do you mean? A Whenever they want an extra man I do the work.

Q Oh, you are the extra man at the Coroner's office? A Yes.

Q Oh, ho. You are not a regularly connected physician?

A No. At that time I was regular, for the time being.

Q You were then? A At that time, yes, because there was no other physician, and I was appointed two weeks at that particular moment.

Q Well, that would make it extra anyhow? A Well, if you want to look at it that way.

Q It is a civil service job, isn't it? A Yes.

Q And you are not on the civil service? A No.

Q So therefore you were an extra man all the time, trying to hold the job?

MR. EDWARDS: I object to counsel's comments.

THE COURT: Objection sustained.

Q Was there any evidence at all to show or to indicate that



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there had been anything done to remove the pressure, or perform some kind of an operation to aid or help? A No.

Q No evidence at all? A No.

Q In other words, the doctor before had done nothing at all?

A The skull was so crushed in, the man was dying when they brought him in, and the chances are any operation would hasten his death.

Q Based on suspicion? A Experience of thirty-five years.

Q You don't know what happened to this man before you saw the body? A With that amount of Hemorrhage, that amount of compression, there was no earthly show for him.

Q When you performed the autopsy you didn't know how he had been struck or how --- A I knew he had been struck.

You didn't know how, when or where? A No, and I didn't care.

Q And still you had your own opinion? A Not until I got through with the post mortem.

Q Still you had your own opinion? A When I finished the post mortem.

Q Without any information whatever? A I didn't need that. When I got through I knew the cause of his death.

Q All you did was to cut the body up -- you knew nothing of his previous history? You used your knife, you cut the body up and you performed an autopsy? A And found the cause of death.

Q That was, in your opinion, at that time, without any other outside information? A That's it.

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Q You did not testify before the Coroner, did you? A No.

Q Your first appearance was before the Grand Jury? A Exactly.

A R C H I B A L D G R A H A M, M. D., called as a witness in behalf of the People, being first duly sworn, testifies as follows:

(The witness states his address to be 54 Park avenue, Paterson, New Jersey.)

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are a practicing physician and surgeon? A Yes, sir.

Q Where do you live? A Paterson, New Jersey.

Q You served at one time as a House Physician in Gouverneur Hospital? A I served on the Interne staff of Gouverneur Hospital.

Q And you were connected with the Interne Staff at Gouverneur Hospital on August 18th, 1912? A Yes, sir.

Q Were you on ambulance duty that day? A Yes, sir.

Q Did you receive any call to Stanton street? A Yes, sir.

Q Did you go to the premises 54 Stanton street in response to that call? A Yes, sir.

Q Did you see there Officer Boeger, from the 15th Precinct, the officer who testified here? A If that is the officer way back there, he was present, yes, sir (indicating Officer Boeger).

Q Did you find a patient there waiting for you? A I found a Chinaman.

Q What did you do for him there? A Why, I simply applied temporary bandages. After a great deal of persuasion I managed to get him to come to the hospital.

Q Did he tell you what his name was? A Yes, sir.

Q What did he tell you?

MR. BRANDE: I object to that.

THE COURT: I will allow him to state the name, if he remembers.

A I am not positive. I think it was Charlie Lem.

MR. BRANDE: I object.

THE COURT: He can give his best recollection.

Q Your best recollection is that it was Charlie Lem? A Yes.

MR. BRANDE: Exception.

Q Where did you take him to? A To the hospital.

Q How long did he live after he got there? A Why, he was in a critical condition when I got him, and he was suffering from a compound fracture of the skull, and he died a short time after he was admitted to the hospital.

Q Did you afterwards on that evening see Dr. McAllister?

A Yes, sir.

Q Did he come there to the hospital? A Yes, sir.

Q Did you see the body of the Chinaman on which he performed an autopsy? A I was present at the autopsy.

Q Was it performed on a Chinaman? A Yes, sir.

Q Was it the same Chinaman whom you had brought that morning in the ambulance from 54 Stanton street? A Yes, sir.

Q And you were present during the entire autopsy? A Yes, sir.

CROSS EXAMINATION BY MR. BRANDE:

Q You did not appear before the Coroner, did you, at the

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inquest? A No, sir.

Q This is the first time you were a witness? A In this case?

Q When I speak I speak of this case only? A I was a witness before the Grand Jury.

Q That was the first time? A In this case?

Q Well, I mean that, Doctor; I don't want to confuse you. I never saw you before in my life. How many times did you go before the Grand Jury? A Once in connection with --- just a minute please.

Q Did you go there more than once? A May I ask a question?

THE COURT: Yes.

A (Witness continuing) I have come in here rather late, and I don't know who is here at present, who the trial is for, who is being tried.

MR. EDWARDS: The doctor is not sure, he says, what case you mean.

THE COURT: A defendant named Achille is being tried.

THE WITNESS: Thank you.

BY MR. BRANDT:

Q Here is the defendant sitting here (indicating Defendant Achille); did you ever see him in your life? A Not to my knowledge.

THE COURT: The doctor did not know what case you were referring to, before the Grand Jury, whether this

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defendant's case, or one of the others.

A (witness continuing) I have been before the grand jury several times, and I didn't know exactly which case which was specified.

Q You are on the witness stand. Do you know what you are testifying about? A Naturally.

Q You know then you are testifying in a case, do you not?

THE COURT: You asked him how many times he had been before the Grand Jury on this case, and he cannot say this case until he knows the name of the defendant.

Q The defendant's name is Achille? A There were other defendants besides this one though.

Q Yes. A Well, then ---

Q You were subpoenaed here, were you not, today? A Yes, sir.

BY THE COURT:

Q How many times have you been before the Grand Jury in this defendant's case? A Only once.

BY MR. BRANDE:

Q How many times up in the District Attorney's office?

A Never.

Q Never up to Mr. Skinner's office? A No, sir.

Q Never in the Homicide Bureau? A Not until this afternoon.

Q When did you appear before the Grand Jury against this defendant? A Why, probably about three weeks ago; I have forgotten the exact date I was subpoenaed. I think it is in the neighborhood of three weeks ago.

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Q Before the grand Jury three weeks ago? A That is as near as I can recall at present, yes. It may have been longer than that. It may have been a month ago. I have forgotten the exact date.

Q So the best recollection you have, doctor, upon appearing before the Grand Jury in this case, that is against this defendant here, this particular defendant, is about a month ago? A Approximately. I said I can't tell you the exact date.

Q I suppose you don't know and are not acquainted with the fact that the defendant had been in jail over six months, do you? A No, I didn't know that he had.

Q Under indictment? A No, I didn't know that he had, no.

Q And before you went before the Grand Jury you spoke to no Assistant District Attorney whatsoever? A No, sir.

Q No police officer? A No, sir.

Q Just went before the grand jury? A That is all. I was subpoenaed, came down here and appeared before the grand jury and left.

Q And you consulted no one in the case whatsoever on the part of the District Attorney's office? A No, sir.

Q They didn't know what you were going to testify? A I knew I was going to be questioned in regard to the case, and I looked up my records on it and looked up the records of the hospital. That is all they asked me, - what I had found.

Q Who asked you? A Why, the Grand Jury. The foreman of the

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Grand Jury asked several questions -- the presiding judge.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q Doctor, you have not been in New Jersey continuously since you left the hospital; have you? A That is at all other times, yes.

Q You left Gouverneur Hospital about when? A I left Gouverneur Hospital on the 1st of July, 1913.

Q And then did you go away from this section of the country?

A I had typhoid fever in the hospital, and I left for my health, and then I came back to New York, and later I went to Paterson.

Q Well, have you spent all of the time in and out of New York since you were at the Hospital? A All of the time.

Q I mean in New Jersey and New York? A Yes.

Q All the time? A Yes, sir.

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

(The witness states his address to be 299 Water street)

DIRECT EXAMINATION BY MR. EDWARDS:

Q You have pleaded guilty to manslaughter in the first degree under an indictment charging you with murder of the Chinaman Charles Lee, have you not? A Yes, sir.

Q Do you recollect when you pleaded? A About three weeks ago, I believe.

Q Before what Judge? A Judge Nott.

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BY MR. BRANDE:

Q Judge who? A Judge Nott.

BY MR. EDWARDS:

Q Do you remember what part it was in? A Judge Nott.

Q Do you know this defendant? A Yes, sir.

Q How long have you known him? A Two or three years.

THE COURT: He did not plead before me.

MR. EDWARDS: I think he pled before Judge Swann.

THE COURT: Before Judge Rosalsky, wasn't it?

BY THE COURT:

Q It was not before me that you pleaded guilty, was it?

A I don't know. One of the court attendants told me it was Judge Nott.

MR. EDWARDS: It was the month before last, Before Judge Swann.

THE COURT: Yes, before Judge Swann.

Q (Continuing the examination) Did you see him in August, 1912? A Yes, sir.

Q What day of the month did you last see him before you were arrested? A The last day of the month of August?

Q What day of the month of August, 1912, did you last see him before you were arrested? A I believe it was December.

Q Well, I mean in the month of August? Do you remember the day that Charles Lee was killed? A Yes, sir.

Q Do you remember the date? A I believe it is the 17th.

Q What day of the week? A Sunday morning.

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Q When was the last time before that morning that you saw this defendant? A Saturday night.

Q The night preceding? A Yes, sir.

Q Where did you see him? A In front of the Hippidrome Moving Pictures, on Houston street.

Q Were you working at that time? A Shining shoes.

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

Q Did you speak to him first, or did he speak to you first?

A He spoke to me first.

Q What did he say to you? A He told me he was out of money and asked me if I wanted to make any money, so I told him I was shy a little money; if he knew where? So he told me.

Q What did he tell you? A He said he knew a Chinese around Stanton street for the last four or five years and he knows where he keeps his money.

Q Did he tell you where he kept it? A Yes, sir: under the mattress.

Q What else was said? A He told me all I had to do was to knock him out, and go in there and lift up the mattress and take the money out.

Q What did you say to that? A I said, "It is easy to talk, but the job is too hard for us to do, especially for us two. We need more than two."

Q What did he say to you? A So he -- he seen a little "Woppy", whatever you call him -- De Antonio, standing about ten feet away from us, and he asked me to call him.

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Q Was that this same evening? A Saturday evening, yes, sir.

Q Did you talk with De Antonio there then? A Yes, sir.

Q Was anything said to De Antonio at that time by the defendant? A No, sir, it was I who was speaking to him.

Q You spoke to him? A Yes, sir.

Q Was the defendant there present at the time you were talking to him? A Yes, sir.

Q What did you say to him? A I told him what Coco had said, the defendant.

Q Who is Coco? A The defendant.

Q The defendant Achille? A Yes, sir, about the "Chink" he had told me, and I asked him, I told him to go around and see how many Chinamen was in the place. So he says, "All right", so I gave him a shirt and sent him around there.

Q That was the Saturday night? A Saturday night.

Q Where did you and the defendant Achille stay while he was gone? A Stood around Houston street.

Q How far was that from 54 Stanton? A Oh, about from Stanton, from Houston to Stanton, about 150 yards from Eldridge street.

BY THE COURT:

Q Where did you get the shirt you gave him? A It was my shirt; I had it in the moving picture house.

BY MR. EDWARDS:

Q You had it in the Hippodrome? A Yes.

Q You went in and got it, did you? A Yes.

Q Did you live there at the moving picture show, at the

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Hippodrome? A I slept there once in a while.

Q Kept some of your clothes there? A Yes, sir.

Q How long was De Antonio gone? A About twenty minutes.

Q Then did he return? A He returned and said "There is only one Chinaman down there."

Q When he came back you and Achille were still together? A Yes, sir.

Q What did you do then? A So we made a date for Sunday morning at eight o'clock to meet in front of the moving picture house.

Q The same place? A Yes, sir.

Q Did you meet there the next morning? A Yes, sir.

Q All three of you? A Yes, sir, all three of us.

Q What did you do when you all met? A I went in and got a billy, a wooden billy, and I put it down me pants.

Q You mean like a short policeman's billy A Yes, sir.

Q Where did you carry that? A I carried it in between my pants, holding on by my belt; the loop I put through the belt.

Q And then what did you do? A We walked around to Eldridge street, and when <sup>we</sup> got half way down the block to Stanton I seen Goldstein on the other side, hanging out in a saloon -- the Minsky Building, what they called the building, and I called him over and asked him if he wanted to make some dough, that Achille knows where the money is, and all we have got to do is to knock the "Chink" out and go and get the money and walk out.

Q Was Achille there when you said that to him? A Just alongside of me.

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BY THE COURT:

Q Why did you make the hour eight o'clock in the morning rather than the night time? Why did you fix that time? A There was not many people walking around the street at that time of the day, and at night the Chinaman goes and brings his money down to the bank some place.

Q Then there would be no money left in the morning? A Well, he generally takes his money Sunday afternoons, keeps all that he has got, that he takes in during the week.

BY MR. EDWARDS:

Q This was Sunday morning that you were going to meet there?

A Yes, sir. The four of us, Goldstein, De Antonio, Achille and myself, we went around to the Chinaman's place, stood about 100 feet away, towards Forsyth street on Stanton, by the school. So I told them to wait there, I had a shirt ---

Q Whose shirt was this one? A My own too.

Q Where did you get this one? A In the moving pictures. I walked past the Chinaman's place and got a glance of him, and I came back and told them that this billy was toolight to knock him out.

Q How could you see him as you walked past? A Through the window.

Q The basement window? A He was sitting right behind his counter there, counting some loose change he had in the drawer. So I told Coco, the defendant, and Goldstein, that the billy was too light. So they says, "What are you going to do?" I said

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"We had better go around and see if we cannot pick up anything heavier." so the four of us went around Forsyth street to Houston, and into the moving picture house and I found an iron pipe, about eighteen inches long, three-quarter inch wide inside and I took that and wrapped it up in paper, and carried it, the four of us, to Eldridge street. Half way down Eldridge street I got Goldstein, I said "Here you had better take this, and you just hit him, and I will go and get the money, and Coco will go at the drawer."

Q Was Coco beside you when you told Goldstein that? A Yes.

Q Where was De Antonio then? A De Antonio was in the back of us.

Q All walking along together? A The three of us abreast and De Antonio in back of us. Goldstein had his coat off and he put the iron bar with a newspaper around it in between his coat and held it this way (indicating).

Q You mean, covered it up with his coat? A Covered up with his coat, with his coat off.

Q This was in August? A This was Sunday morning. We went and passed the Chinaman and stood by the school again, at the same place where we stood first, and I sent De Antonio down to the Chinaman to inquire about the collars which his brothers had sent down there last night, but forgot to get the ticket, and see if there was any other Chinaman besides the owner downstairs. He went downstairs and came up and says there was only one Chinaman there, and that he didn't know nothing about

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the tickets.

Q Did you ever see this Chinaman before that? A No, sir.

Q All right. Go on, tell us what happened next? A When he came up, Achille told him to stand at the edge of the gutter, in front of the store, while we went in. Goldstein and I went down first.

Q Where was Achille when you went down? A Achille was about on top of the stairs when we were at the door, just about to open the door when he was coming down.

Q About how many steps were there down from the street to the basement? A I believe there were about eight or nine steps.

Q And Achille was at the top of those steps as you were about the bottom, about at the door? A Yes, sir.

Q What was Achille doing at the top of the steps? A He was looking around. As soon as we opened the door and went inside he was to come down. We opened the door and went inside and I handed over the shirt that I had to the Chinaman, and the Chinaman took it and put it under his counter, and as he is coming up he was hit on top of the head with the iron pipe.

Q Who by? A By Goldstein. I quick switched around on the left side of Goldstein; and the Chinaman, he was a little bit dazed, but he came at us, and I pulled out the billy and I hit him -- I think it was right up here on the neck (indicating near neck on right side of witness), some place, and as I hit him there I dove on into the back room.

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Q What do you mean by the back room? A Into the back room where he washes his clothes.

Q What else was there? A There was a boiler there; and tubs there, a table and chairs there, and I believe two beds.

Q Where was Achille, if you know, at the time the Chinaman was struck? A At the time I struck the Chinaman Achille was just coming in the store.

Q In the door? A In the doorway.

Q Were you facing the door as you struck him, standing with your side to the door or back to the door? A That is the time I was about facing this way (indicating).

Q Your side was towards it? A Yes.

Q Then you said you went into the back room. Where was the Chinaman when you went into the back room? A He was on the end of the counter.

Q The end nearest the door or furthest from it? A Nearest to his washing quarters.

Q Nearest the back of the store? A Yes, sir.

Q Where was Goldstein? A Goldstein was right in front of the end of the counter, right in front of it.

Q Did you say anything to Achille and Goldstein when you went into that back room? A I said, "Coco, get for the drawer, first", to go to this money drawer. The change, I seen him, he had taken, to put his hand over the top.

Q Over the counter? A Yes, sir.

Q Then what did you do in the back room? A I was going in

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the back there and getting hold of a bed, lifted the pillow, the covers up and the pillows. While I was doing that I heard the door go shut again.

Q What door? A The store door.

Q The front door? A Yes, sir. I walked out to the store and looked in and I sees two of them had gone up and left me alone. So the Chinaman was laying down on the floor bleeding, and I walked past and walked upstairs and I met them at the corner of Houston and Eldridge.

Q How many blows were struck on the Chinaman, so far as you know and saw? A I seen two blows and I heard about two or three.

Q When you say you heard two or three, what do you mean?

A I heard the sound of the pipe connecting on the Chinaman's head.

Q Where were you at that time? A In the back room.

Q Searching the bed, as you have described? A Yes, sir.

Q Did you find any money in there? A No, sir.

Q Where did you meet with the three defendants again after you got out? A On the corner of Stanton and Eldridge.

Q Were they all three there? A Three of them was there, walking towards Houston street on Eldridge.

Q What was said when you met them all there, if anything?

A Why, they were so excited there was nothing sad at all.

Q What became of the pipe.

Q What became of the pipe? A The pipe was laying in the

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store.

Q Did you see it as you ran up? A I seen it as it was laying on the counter, and the coat standing up agen the counter.

Q The coat was lying up against the counter? A The coat was lying up against the counter.

Q Where was the pipe? A On top of the counter.

Q What was done next? A Why, we walked around to Houston street; I went into the moving pictures, and the other ones scattered some place, I don't know where they went. Went down in the basement and stood down there until 3 o'clock, until they got word around there from a man who was janitor of the moving pictures, known as "Joe, the Wop", went around there to see what was the matter, and he came back and he told me he heard the chinaman ---

Q Achille was not there when he told you, was he? A No, sir.

Q Then don't tell that. Where did you go then after you got that information? A I went over to Jersey.

Q Did any one go with you? A De Antonio.

Q Did you see Coco or Achille before you went? A Yes, sir.

Q Where did you see him? A I see him on Second avenue and Houston street.

Q Did you have a talk with him? A Yes, sir.

Q About when was this, do you remember? A This was around four o'clock Sunday afternoon.

Q That same Sunday? A Yes, sir.

Q What was said at that time? A Why, he told me if I ever

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got locked up, I should not say anything about him, that he had a good job, and this and that, and he knows how his standing is-- I know how his standing is. I says, "Never mind, don't worry, you ain't locked up yet." So I told him, "If you are so nervous, why don't you leave town?" So he says he can't leave town because his job is worth more to him than leaving town. So I says, "Well, you can do what you want to."

Q Then after that when did you next see him? A I didn't see him then for about two or three months, I believe.

Q How long were you in New Jersey? A I only stood in Jersey a few hours.

Q What became of De Antonio? A I brought De Antonio back and left him at, I think it is, 8th street, some ferry station there -- Desbrosses street ferry; I left him there and told him to wait there.

Q Never mind what you told him, just what you did. And you left him there, did you? A Yes, sir.

Q And where did you go? A I went to 2nd street and 3rd avenue, in a saloon.

Q And then did you go back again to Desbrosses Street? A Yes, sir.

Q Did you find De Antonio there? A No, sir.

Q And when did you go? A I took the night boat up to Albany.

Q From Albany where did you go? A To Schenectady.

Q How long did you remain there? A About two months.

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Q Then what did you do? A I came back to New York.

Q When were you placed under arrest? A September 23rd, 1913.

Q By whom? A By Chief McIntyre.

Q Of what? A Of Lyndhurst, New Jersey.

Q When were you first placed under arrest in connection with this particular case? A I can't understand what you mean.

Q Well, what I mean is, when were you brought over from Jersey to New York by the Police? A Oh, November 21, I believe.

Q 1913? A 1913.

Q Were you convicted of any crime over in Jersey? A No, sir.

Q Was it while you were in the prison over there that the New York police came over and interviewed you? A Yes, sir.

Q And it was then that you told them about certain things concerning which they asked you? A Yes, sir.

Q And then you were brought back to New York by them? A Yes.

Q Have you ever been convicted of any crime other than your plea in this case? A Petit larceny.

Q When was that? A That was in 1912.

Q Anything else, besides that? A I was put away by my father for disorderly conduct and stealing money from him in 1905.

Q Where did you go to then? A House of Refuge.

Q Anything else besides those? A I was locked up in Schenectady for living on the money of a prostitute.

Q And when you told the police here in New York concerning the bomb throwing, or placing, crimes, you were not placed under arrest yourself on those were you? A Well, I was placed ---

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Q You were not convicted of anything in connection with the bombs? A No, sir.

Q But, as I understand it, you did place a good many bombs, did you not? A Yes, sir.

Q Did you know approximately how many? A About thirty-three.

Q And you have testified -- after making these statements you did go to the police and district Attorney, you have testified in a good many of the bomb prosecutions, haven't you?

A Yes, sir.

Q And your plea was accepted in this case to manslaughter in the first degree? A Yes.

Q And you have not yet been sentenced? A No, sir.

CROSS EXAMINATION BY MR. BRANDE:

Q Then we take it for granted now that you are the real murderer of this Chinaman, are you not? A No, sir.

Q Who was? A Goldstein.

Q Who? A Goldstein.

THE COURT: Now, Mr. Brande, please try to modify your voice. We will get along better if you do not shout.

MR. BRANDE: He won't hear me, your Honor.

THE COURT: Yes, he will. I can hear you, if you speak much lower.

Q You struck the blow, didn't you? A No, sir.

Q You said before you struck him with the billy? A I struck him. Why don't you say what you mean?



Q Why don't I say what I mean? A Yes.

MR. EDWARDS: I object to counsel arguing with the witness.

THE COURT: The witness was arguing with counsel. Just answer questions.

Q How many men have you killed, in your lifetime? A I have not killed anybody.

Q How many men have you killed in your lifetime? A I have not killed anybody.

Q How women? A I have not killed anybody.

Q Didn't even kill this Chinaman? A No, sir.

Q What work were you doing? Shining shoes, you said? A Yes, sir.

Q Where were you shining shoes? A Eldridge and Houston.

Q What, with a box on your back? A No, sir.

Q Did you have a stand? A No, the man had a stand that I was working for.

Q What is the man's name that you were working for? A Zip.

Q Who is Zip? A Well, he was the owner. That is the only name I know him by.

Q Was he any store or fruit store? A No -- bootblack-

Q Was he a shoe store or a shoe store? A In a store.

Q Were you working with him? A Yes.

Q How long had you been working there? A I was just starting  
days and Sundays.

Q How much would you get? A \$1.50 a day.

Q When was the first bomb that you sent off in the City of New York? A The first bomb I set off in the City of New York?

Q Yes. A In July, 1913.

Q The first bomb you shot off in the City of New York was in July, 1913? A Yes, sir.

Q Is that right? A Yes, sir.

Q Where was that? A Oh, I can't say with a lot -- that was some place in the streets of New York.

Q Was it in a tenement house? A No, it was outside.

Q Well, was it in front of a tenement house? A In front of a tenement house.

Q Why did you set off that bomb in 1913 in front of this tenement house? A To get money.

Q In other words, you are a thief at heart, are you not?

A No, sir; I am no thief at heart.

Q Why, you go and shoot off a bomb in front of a tenement house to get money, - do you call that honest? A Well, there is people higher than me.

Q Never mind them. Contine yourself to yourself. You are a thief at heart, don't you know that? A You may think so, but I don't.

Q Oh, you don't think. You don't know what you are thinking about, do you?

Objected to. Objection sustained.

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Q So you went and put off that bomb to get money? A Yes, sir.

Q From whom were you going to get the money? A From the owner of the building.

Q From the owner of what? A Of the building.

Q So, in other words, you would do anything on earth to get money? A At that time ---

Be it crooked, honest or dishonest, isn't that right?

A Yes, sir.

Q Did you hear that bomb go off? A I certainly did.

Q Were you within the vicinity of that place when it went off? A About two blocks away.

Q Was it in the night time or in the day time? A Night time.

Q At about what time? A Oh, I can't think of what time it was.

Q Was it midnight? A Between nine and twelve.

Q You saw the commotion there, didn't you? A No, I didn't see the commotion.

Q Didn't you see the poor people and the poor women coming out of their windows and jumping down fire-escapes after hearing that explosion? A No, sir.

Q You didn't see that, did you? A No, sir.

Q You ran away? A No, I didn't run away.

Q You stayed there to see the sights? A I walked away.

Q When was the second bomb that you placed? A If I knew

all these questions I would have put

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them in a book for you and read them off for you.

Q Well, you just tell us about your different crimes. You answered my questions before, you know you did. A I know I did.

Q Well, then answer them again. A Your Honor, I can't think of the date --

THE COURT: Well, give your best recollection.

A (Witness continuing) In July.

Q In July again? A Yes, sir.

Q Where was that? A I believe it was 153 Mott street.

Q No. 153 Mott street. Near what street is that? A That is Mott and Grand.

Q What did you explode that bomb for? A For money.

Who were you to get the money from? A From the owner in the store, who had the store downstairs where the bomb was exploded.

Q That was a tenement house also? A It was.

Q And you were in the vicinity of that locality when that bomb went off, were you not? A No, I was going uptown.

Q Well, had you left before the bomb went off? A I lighted my bomb and went away.

Q How long did it take for the bomb to explode after you left? A Twenty minutes.

Q It was a twenty minute fuse? A Yes, sir.

Q That was also a tenement house? A Yes, sir.

Q Did you get any money there? A Not that I know of.

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Q You failed there? A Yes, sir.

Q Did you go back the next day to see what damage you had done? A No, sir.

Q You didn't go near the premises at all? A No, sir.

Q still you want to tell this jury that you are not a thief at heart and a murderer? A I am no murderer.

Q You will go and explode a bomb where you might kill thousands of people and you say you are no murderer? A No, sir.

Q Don't you remember telling me in this very court and upon that very chair that you have no more regard for human life than you had for an insect? A I didn't say insect.

Q What was it -- dog? A I said I didn't have no regard for human life at that time.

Q so, if you had no regard for human life you certainly have not got any regard for the truth, have you? A Yes, sir.

Q What? A I am telling you the truth now.

Q That you have no regard for human life? A Not at that time.

Q Let us come down to the third bomb? A The third bomb?

Q Yes. You said thirty-three or thirty-five. A Well, that was the same night, up in 80th street, I believe.

Q That is to say, from 153 Mott street, that very same night you went up with another bomb? A Yes, sir.

Q To 108th street? A To 80th street.

Q And you put another bomb there? A Yes, sir.

Q And that was a tenement house, wasn't it? A Yes, sir.

Q And lives children, women and innocent people involved, weren't there? A Yes, sir.

Q You had no heart then as of whom might have been killed by the exploding of that dynamite? A I told you I didn't have at that time.

Q That is three, you had no heart. That is how you made your living, by exploding bombs and thievery, isn't that right? A Yes, sir.

Q And you continually did that until you became a witness in this case, didn't you? A In all cases.

Q Now, what is the fourth bomb. I will lead you up to those cases? A 228 Washington street, I believe.

Q New York? A Yes, sir.

Q That is another tenement house? A No, sir,

Q What is that? A That is the market.

Q That was a market? A Yes.

Q Where did you place that bomb? In a store? A In a banana store.

Q What did you place that bomb there for? A For money.

Q Did you get the money? A Yes, sir.

Q How much did you get? A \$150.

Q so that then shows you would do anything from murder down to get money, isn't that right? A Well, I was told to do it and I did it.

Q But I say, you would do anything for money -- commit murder, or anything else? A At that time, yes.



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Q That is the fourth bomb. Have you any idea of the number of bombs, according to the police report that have been shot off in the City of New York since you started to shoot them off?

A Some 115.

Q And do you know that in the last trial you got up to about 80 that you had been connected with?

THE COURT: The last trial of what?

MR. BRANDE: We had a trial here of Sylvestro.

THE COURT: Do you mean for having bombs?

MR. BRANDE: Yes.

THE COURT: You do not mean any trial connected with this case?

MR. BRANDE: Nothing about this case, your Honor.

A What is that question.

Q Do you remember there were about eighty bombs you got up to in that trial? A Well, I didn't fire all them, I just told I fired about thirty-three.

Q But you knew about the other number? A Yes.

Q You got up to 80 that you had information about? A I don't know how many.

Q So then it was you that terrorized the City of New York with these bombs? A No, it was not me.

Q You are the principal instigator are you not? A No, sir.

Q You have a knowledge of about 80, and you also tell me now, and told the jury that the official police report of the bombs was 113? A 115, I said.

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Q Oh, 115. I beg your pardon. Who fired off the others?

A I don't know.

Q You don't know above the 80? A I didn't say I know above any number. I just know about what I was in.

Q Thirty-three you said you were in, or thirty-five? A Yes.

Q I am asking you these questions and you know why I am asking you these questions. We have got up to the fourth bomb.

A Yes.

Q The reason I am asking you these questions, I want you to clear all suspicion of those who were connected by the police when you were doing it. Come up to the fifth bomb.

THE COURT: Questions cannot be asked for that purpose, we are not trying other persons; but you will ask him as affecting his credibility and not as affecting any one else.

MR. BRANDE: No, sir, we are not trying those.

Q So, about the fifth bomb: where did that go off? A 268 Washington street.

Q Is that the same place? A No.

Q Another place? A Yes.

Q What was that for? A The same as all the rest of them. you know it yourself. What is the use of asking me? What are you trying to do?

THE COURT: Well, the jury has got to know it.

Q Stop arguing with me. I want the jury to know your purpose.

A For money purpose.

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Q Again with thievery and for murder? A It was not for murder.

Q Well, don't you know how dangerous these bombs are?

A Yes, I know now how dangerous they are.

Q Didn't you know after you shot the fourth and fifth and sixth how dangerous they were? A No, sir.

Q You did not? A No, sir.

Q Didn't you know they ruined the premises where you set them off? A They ruined the premises, yes.

Q And by sheer luck and Divine Providence no one was killed?

A We always set our bombs where there was nobody around.

Q You set your bombs when there was nobody around? A Yes.

Q Well, the people in the house? A There is no people in this house I am talking about now.

Q Well, let us get away from that one, come to the sixth bomb. Let us see if there were any people in that house. A Where did the bomb ---

Q The sixth? A 136 Eighth avenue.

BY THE COURT:

Q When you were testifying in the Sylvestro case, was that a case where a man was being tried for setting off bombs? A No he was tried for a bomb at 170 East Houston-street.

Q Is that the case where Mr. Brande interrogated you? A No, he didn't come up to that one, yet, but these bombs all came out at that trial.

Q well, that is the case that Mr. Brande asked you questions in, the Sylvestro case? A (No answer)

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BY MR. EDWARDS:

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Q This lawyer (indicating Mr. Brande) asked you questions at that trial, didn't he? A Yes, sir.

BY MR. BRANDE:

Q Do you know that case? You testified against Sylvestro, did you not? A 170 East Houston street?

Q That is a bomb that you set off there, isn't that right?  
A Yes, sir.

Q And Sylvestro did not set that bomb off, did he? A Well, I told you at the trial --

Q And notwithstanding the fact that Sylvestro did not set the bomb off, you came here and testified against him? A Yes.

Q Now you are doing the same thing in this case? A I testify to the truth.

Q The truth? A Yes, sir.

Q You would no more lie than anybody else? You would no more lie than kill a Chinaman? A I don't think so.

Q Tell me about the sixth bomb? A 136 East Houston -- or Eighth avenue.

Q What kind of a house was that? A An apartment house.

Q With families in it? A Two or three families.

Q Was it an apartment house or not? A There was a store underneath.

Q Was it an apartment house or not? A It was a house with people living in it.

Q When you set your mind to go and set off a bomb,

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you know where you are going to set it off, don't you? A I know where I am going to place it, yes.

Q You pick out your spot and you know where it is, whether a store or tenement house or brick house or wooden house?

A Whether it is a store.

Q But on top of the store was what? A There was people living upstairs.

Q What time of the night did you set that bomb off? A At 2 in the morning.

Q Were you around when it went off? A Down at 14th street.

Q Did you hear it? A Yes, sir.

Q Did you see the crowds run? A Yes, sir; I seen a crowd run.

Q You terrorized the neighborhood, didn't you? A Yes, sir.

Q What did you do that for? A Money purpose.

Q Thievery again? A Yes, sir.

Q And still you are always telling the truth? A Yes, sir.

Q You would commit murder for money, wouldn't you? A I didn't commit it yet.

Q I say but you wouldn't you? A No, sir not now.

Q You can't do it now because you are in jail, that's true. When was the 8th bomb that you set off? A 40th street.

Q What number? A I forget the number; between 7th and 8th avenues.

Q What did you put that bomb for? A Money purpose.

Q Money purposes? A Yes.

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Q Then you were willing to commit murder and thievery again there for money purposes? A I didn't commit murder. We didn't want to commit no murder.

Q But you placed the bomb there? AA I was not placed there to commit murder by.

Q What is dynamite? Is it a stick of candy? A No, it isn't.

Q If it hits any one it will kill them, won't it, the explosion? A It won't just exactly kill them.

Q It would cripple them? A We didn't have bombs made as strong as all that, to kill a person.

Q How strong would you make a bomb? A Just enough to bust windows and damage woodwork.

Q Enough to destroy property? A To destroy property.

Q So that if it destroyed tile work, it wouldn't kill an individual? A What do you mean by tile work?

Q Well, where you would find the tile work -- A Stone?

Q Yes. A It has not got so much force to do that.

Q How much dynamite would you put in it? A I don't know how much dynamite. sticks of dynamite.

Q sticks of dynamite? A Yes, sir.

Q Suppose one of those bombs were to explode in your hand, what would happen to you? A Well, I suppose I would be down too.

Q It would knock you dead, wouldn't it? A Probably.

Q And knock a whole lot more dead that it would hit? A Well, if they came close enough.

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Q So then, it is only through Divine Providence that during all your operation of setting bombs that no one was killed? It was not your fault. Now, tell me about the ninth bomb. Where was that? A 167th street.

Q I suppose that was for murder and thievery also, wasn't it?

A Not for murder, for money purpose.

Q If it killed anybody you wouldn't care, would you?

Q What is that?

Q You wouldn't feel sorry, would you? A I would feel sorry.

Q But you wouldn't care, because you wanted money?

A Yes, sir.

Q In other words anything from murder down to money? A (No answer)

Q How much money have you received from the District Attorney's Office while being in the House of Detention as a Witness in this case? A I never was in the House of Detention.

Q Did you get any money at all? A No, sir.

MR. EDWARDS: He never was in the House of Detention he said.

Q Did you get no money? A No, sir.

Q That is true too? A Certainly it is the truth.

Q Where did you set the tenth bomb off? A I think it was 400 Lafayette street, corner of 4th street.

What was that, Father Drumgold's Home? A No, sir.

Q What was it? A A factory.

For money also? A No, a strike job.

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Q You were hired by the strikers? A No, sir, I was hired by my leader.

Q Who was your leader? A Polaro.

Q Who hired him do you know? A A delegate of the Union.

Q What is his name? A Jimmie Carianti -- something like that.

Q Have you testified against him? A No, he is outside.

Q What do you say? A He is out walking the streets.

Q Oh, you have not squealed on him? A Yes, I have told everything I know about it.

Q And he is outside! Didn't they believe your story? A You will see the District Attorney about that, I don't know.

Q That is the tenth. Now give us the 11th bomb? A 170 East Houston street. I am giving them just as they come to me. I am not giving them by the dates.

Q No, you have had so many that you don't remember! 170 East Houston street. And that was for money too? A Revenge.

Q For revenge! Wasn't that the moving picture place? A No, sir.

Q 170 East Houston? A Yes.

Q That was not a moving picture place? A No.

Q It was revenge? A Yes, sir.

Q Whom did you want to get revenge on there? A Some girl who kept company with Joe Fay.

Q So to get revenge for a girl's sake you go and put a bomb?

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A No, I was hired by Sylvestro.

Q Quite a nice character then, committing murders of that kind? A We didn't commit no murders.

Q But you couldn't help it, if you hit somebody, could you?

A (No answer)

Q All right, we will pass that. What about the twelfth bomb? A Charles street and Westminster street, Lodi, New Jersey.

Q You went all the way over to New Jersey to explode it?

A For money purposes.

Q What about the 13th, where was that? A 40 Monroe street.

Q For money? A Yes, sir.

Q During all these operations you escaped the clutches of the law, isn't that right? A Yes, sir.

Q And the fourteenth was where? A 756 Eighth avenue.

Q That was for the purpose of money also? A No, sir, that was to drive a barber out of his place.

Q That was to drive a barber out of his place! Who paid to drive that barber out of his place? A Patrini.

Q When was the fifteenth? A 156 Mott street.

Q Is that the bomb that went off near Grand street? A It is near Grand, yes.

Q That was a tenement house? A It certainly was.

Q How many in the vicinity when that went off, weren't

Q How many were two or three blocks away.

Q Were they running there, hollering and shrieking

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for help, didn't you? A No, sir.

Q Did you come around afterwards? A No, sir.

Q What would you do when you set these bombs off --- go around and ask the man for money and if they didn't give you money would you shoot a bomb, or how would you do it? A A Send them a letter.

Q Threatening his life? A Yes, sir.

Q You would blow his life away if he didn't give you a certain amount of money? A I wouldn't blow his life away -- we would blow his place up.

Q Well, blow him with it? A If he was in it.

Q Let us get up to the 16th bomb. You will skip one more or less once in a while. A 27 Chrystie street.

Q Near that street is that? A Near Stanton.

Q That is a very, very congested neighborhood, occupied by poor people, isn't it? A Mostly blackhands.

Q Who are the blackhands? Let the Court and the jury know?

A The blackhands?

Q Who are they? A Who are they? Sylvestro, Patrini, Scapone, Sylvestro, Fay, Zunk, Burke and myself.

Q That is about ten? A About ten, yes.

Q That neighborhood contains thousands upon thousands of innocent individuals, -- children, women and all -- does it not? A Yes, sir.

Q And that is where you set off the bombs? A Yes, sir.

Q To endanger the lives of those poor innocent people? A

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Not to endanger, but to get revenge on Scapone.

Q What about the seventeenth bomb that you set off? A 147 Elizabeth street.

Q That is near where? A Between Spring and Wooster.

Q That is a congested neighborhood where poor people live?

A Yes.

Q And I suppose you shot that bomb off for money also?

A Yes, sir.

Q You threatened to blow that man's head off, if he didn't give you money? A Yes, sir.

Q You did? A Not me.

Q Well, you shot it off, didn't you? A I shot it off, yes.

Q You knew why you were shooting those bombs off, didn't you? A I certainly did.

Q You didn't care -- as long as you got your money, you would do anything to get it, is that it? A I wouldn't do anything to get it.

Q What is there more dangerous, in your opinion, than scattering dynamite through out the city of New York, to get money, will you tell me? A Well, it is dangerous.

Q What is there more dangerous than that? A Murder.

Q In your opinion. A The danger of killing people.

Q Well, won't dynamite kill people? A If they get close to it.

Q And you didn't know how close they were going to get to those after you dropped the bomb there, did you? A No, sir.

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Q What about the eighteenth bomb, where was that? A 61, 147 Forsyth street.

Q What kind of a place was that? A A shoemaker.

Q And that is a thickly inhabited neighborhood, isn't it?

A Yes, sir.

Q And that is where you always put your bombs, in the poor neighborhoods, to scare the poor people? A That was for revenge.

Q So you would do anything for revenge? A Or, if money was paid enough.

Q Well, I say, you would do anything for revenge? A For money, yes.

Q And for revenge? A Well, I wouldn't be getting no revenge out of it. It was the man that would be paying the money that was getting the revenge out of it, not myself.

Q Outside of a bootblack, did you ever work anywhere?

A Yes, sir, I worked several places.

Q Working on the bombs? A No, sir, working honest work.

Q What about a pickpocket? A I ain't no pickpocket.

Q Why? A I don't know how.

Q You are no good at it, you mean? A I never took no stock in it.

Q You were a pimp, weren't you? A What?

Q Weren't you a pimp? A A pimp? About a week.

Q Didn't you go to jail for being a pimp? A I got nailed. That is what I said, About a week.

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Q You put a little girl in a house of prostitution, didn't you? A No little girl -- a big girl.

Q How big was she? A Oh, about six foot.

Q How old was she? A About twenty-six.

Q Where was it you took that girl? A Schenectady.

Q From where? A From New York.

Q You met her in New York? A Yes, sir.

Q And brought her up there? A Yes, sir.

Q And lodged her in a house of prostitution? A Yes, sir.

Q And you were living from her prostitution? A I didn't have chance enough to live there.

Q She didn't make anything, did she? A Got nailed too quick.

Q This girl didn't know where you were taking her, did she?

A Certainly she did.

Q She was not a prostitute here, was she? A Yes, sir.

Q What did they get you for -- white slavery? A No, sir.

Q What was it? A Violating City Ordinance.

Q What did you get for it? A Six months.

Q For violating the City ordinance, six months? A Yes, sir.

Q Did the judge tell you that? A Why, certainly he told me that.

Q Violating a city ordinance? A Violating a city ordinance. Judge Farley.

Q What was the nature of the charge before the judge? What did the judge said you had done? A He said I was living

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on the money of a prostitute.

Q You were living from the proceeds of a prostitute? A Yes.

Q You call that a violation of a city ordinance? A That is what it was read.

Q I suppose you told the judge then that you were not doing so, didn't you? A Oh, I pleaded guilty to it.

Q Did you plead guilty? A Yes, sir.

Q Sure about that? A Certainly did.

Q What did you tell him? A I didn't tell him anything. "I am guilty", that's all.

Q Didn't you tell him that you didn't do it? A No, I didn't tell him that I didn't do it.

Q Then what did you do when you got out of Schenectady, out of that jail? A I came back to New York.

Q And started to shoot bombs off again? A That is the time I just started in to shoot them off.

Q Oh, that was in between shooting off bombs and going into the white slave business? A No, we went up to Schenectady and I done the six months and I came back to New York and I met junk and the other fellow and I was introduced to the black hand.

Q After you came back to New York tell us when the twentieth bomb went off in the city of New York, after you got out of jail? A Stuyvesant place, Lyndhurst, New Jersey.

Q That was the twentieth one at Lyndhurst, New Jersey?

A Yes, sir.

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Q What kind of a place was that? A A strike job.

Q What about the twenty-first? Where was that? A Fulton street, in Brooklyn.

Q Do you know what part of Fulton street? A I went there at night, I didn't take notice where.

Q It was at night? A Yes, sir.

Q What time of night was it? A About ten o'clock or eleven o'clock.

Q Was it a wholesale store or what kind of a store? A A fish store.

Q For money too? A Yes, sir.

Q Did you get any? A Not that I know of.

Q When was the twenty-second bomb? A 167th street.

Q Was that for money too? A For money.

Q When was the 23rd? A 756 Eighth avenue.

Q That was for money also? A Revenge. That was to put the barber out.

Q You mean the barber shop? A Yes.

Q Blow up his place to get him out? A Yes, sir.

Q You didn't know when you set off these bombs whether anybody was in the store or not, would you? A There was never nobody in the store.

Q You wouldn't know it, would you? A The lights were out. I didn't see anybody.

Q That is the only way you knew nobody was in the store?

A Yes.



Q And you didn't care whether there was or not? A No, sir.

Q When is the twenty-fourth bomb? A 147 Elizabeth street, second bomb.

Q That was two at that place? A Yes, sir.

Q That was what you called "the repeater"? A Yes, sir.

Q They didn't come over the fence the first time so you thought you would put another one over on him? A Yes, sir.

Q Now, the twenty-fifth? A Charles street and Westminster, Lodi, New Jersey.

Q That was a private house, wasn't it? A A factory.

Q To blow up the strikers? A No, that was for money purpose.

Q What about the twenty-sixth? A 11 Prince street.

Q That was Salvino's place, wasn't it? A I believe, yes.

Q Where did you place that bomb? A The store.

Q Did you put it in a hallway under the stairs? A No, sir.

Q Don't you remember you blew up the whole house? A Oh, you have got the wrong place.

Q Have I? I beg your pardon, that is the wrong place. That is nearer the Bowery, that's right.

Q Well, do you know the place I have reference to --- Salvino's? A I heard about that, yes.

Q Did you set that bomb off in there? A No.

Q That destroyed the whole house? A No.

Q You had nothing to do with that man? A No, sir.

Q One of your friend's though, wasn't that? A Yes, sir.

Q You knew about it? A They told me, certainly.

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Q It was placed inside the hall and blew the whole house apart? A Yes, sir.

That was a very new building, wasn't it? A I don't know.

You knew when it was built there -- you lived in the neighborhood? A I don't live in the neighborhood.

Had you not seen that building being erected within the last year or so? A No, sir.

And you knew that the inside of that new Building, by the force of that dynamite was blown to pieces? A You are making the bombs stranger than what they are.

I never saw them, but if they are strong enough to blow a building up they must be pretty strong? A I never do that. You never heard of a building being blown up ---

What do they do? Blow it down? A Just destroy the wood-work and the windows.

All through the building? A Yes.

You don't call that damaging, do you? A Well, it is damaging, but it ain't putting the building on the floor, the way you are describing it.

Q What about the twenty-seventh bomb, where was that? A In Mulberry street.

Q Do you remember the number? A No, it is between Broome and Grand, between Broome and Grand.

Q And that is a congested neighborhood occupied by poor people, isn't it? A Yes, sir.

Q What was that for? Money too? A Yes, sir.

Q The twenty-eighth bomb was where? A Second avenue, 756. 67

Q What street is that? A Oh, it is up around 36th street, I believe.

Q Was that for money too? A Yes, sir.

Q Did you get any? A Yes, sir.

Q What did you get? A About \$300.

Q You got \$300 for that bomb! What kind of a man was he-- a poor man? A I don't know, he didn't give me the money.

Q But you got \$300? A I didn't get it, we got it.

Q You got it between you and split it up? A Patrini got the money and split it up with us.

Q How much did you get out of it? A About \$30.

Q For setting the bomb off? A Yes, sir.

Q So for \$30 you would go and endanger the lives of hundreds of people? A Yes, sir.

Q When was the twenty-ninth bomb? A 108th street.

Q Was that a store too? A A store.

Q That is a neighborhood that is congested also, occupied by poor people? A Poor people and blackhand.

Q And you got money there? A Not that I know of.

Q You did it for nothing there? A No money come out.

Q Nobody came up with the "cush", huh? A I didn't get any of it.

Q What about the thirtieth bomb? A 187 Elizabeth street.

Q That is near where? Near Prince street, isn't it? A Between Prince and Houston.

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Q That is a poor neighborhood also, isn't it? A Yes, sir. 68

Q And you sent a bomb off there again? A Yes, sir.

Q You had not had enough up to this time of endangering lives, so you had to go to Elizabeth street, to this poor neighborhood; and set off another bomb? A I was sent there.

Q What about the thirty-first bomb? A Crosby and Lafayette.

Q That cannot be? A Crosby, Prince and Lafayette -- Spring and Lafayette.

Oh, Spring and Lafayette. Was that the Italian bank?

A No, sir.

Q Was it a drug store? A No, sir -- a factory.

Spring and Lafayette, what factory is there? A I believe it is that. I don't know the name.

Q You have on one corner the Italian bank, another corner you have that drug store, the other corner you have the saloon, another corner is another saloon -- now, where is the factory?

A Either on Spring or Prince, I can't just remember right.

Q Oh, that is different. When is the last bomb? A The last one, Lyndhurst, New Jersey.

Q That was the last one you shot off? A Yes, sir.

Q Did you get anything from that? A No, sir.

Q What about that robbery when you say you were convicted and sent away by your mother? What did you rob? A Mother? I was sent away by my father.

Q What did you steal? A Oh, money?

Q You stole your father's earnings, didn't you? A Yes, sir.

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Q You started out in your early life and that is the way you made your living, by being a criminal? A Most of the time.

Q In Jersey you were jailed for robbery, weren't you? A No.

Q What was it for? A Violating city ordinance.

Q In Jersey? A Oh, I beg your pardon. I was never locked up in Jersey, except ---

Q Weren't you in jail over in Jersey?

MR. EDWARDS: He just said "except"; give him a chance.

A For this bomb throwing business I was, yes.

Q You were over in Jersey were you not, in jail? A Yes, I was in jail.

Q Just before you came to New York in these cases? A Yes, sir.

Q What were you in jail for? A Suspicious of bomb throwing.

Q And some Italian detectives came over there didn't they?

A Yes, sir.

Q From New York? A Yes, sir.

Q And they took you out automobile rifling, didn't they?

A No, sir.

Q Sure about that? A No, sir.

Q Now, didn't you go riding with the detectives? A No, sir.

Q Out of the jail? A No, sir.

Q You know that detective with the eye-glasses, don't you? De Martini? A Yes, sir.

Q He said that Zunk -- somebody, a companion of yours by the name of Zunk, was going to squeal on you? A No, sir.

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Q Then you said, "I will get square on him? A No, sir.

Q Of course you know Zunk? A I certainly do.

Q He was your companion in these bomb throwing cases, wasn't he? A He was.

Q weren't you connected with a woman over in Brooklyn? A No, sir.

Q You know about that though, don't you? A No, sir.

Q You don't? don't you remember that girl that was killed over there? A No, sir.

Q I forget her name now. Don't you remember me asking you in the other case about that and you said you knew something about it, but you didn't do it? A I know nothing about no woman murder case.

Q Never heard of it? A No, sir.

Q And about that other hold-up job that you did down in Chrystie street? Do you remember going down to Chrystie street and holding up another Chinaman? A Chrystie street?

Q You recollect more than I do? A I don't know what you are talking about.

Q You don't want to remind me? A I don't know what you are trying to get at.

Q Well, will you be kind enough to furnish the jury your-  
self how many more other criminal crimes you have been  
connected with that I have not been able to get at? A I don't  
know, sir, what you are trying to get at.

Q How old are you? A Twenty-four.

Q You have been making your living all the time committing crimes? A Not all the time.

Q When did you work? A I worked for my uncle.

Q Where? A At Jersey.

Q What doing? A Carpenter.

Q Carpenter? A Yes.

Q When was this? A When I was about seventeen years old.

Q What is your uncle's name? A Philip Acuntis.

Q Where is he? A 1725 Park avenue, Weehawken, New Jersey.

Q How long did you work for your uncle? A Oh, about two years.

Q Was that before you had gone to jail for stealing from your father and mother, or after? A After.

Q That is to say, you came out of jail and then went to work for your uncle after you came out of jail? A Yes.

Q Now, let us get down to Achille. You said something before in answer to Mr. Edwards that Achille said he had a good job? A Yes, sir.

Q You knew he had a good job, didn't you? A I didn't know; it was him told me.

Q In other words, you threatened that he should go away from the City of New York, and he said he couldn't do it? A I didn't threaten.

Q You threatened to go to him? A I told him if he was nervous to

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Q And he said, "I wouldn't do anything of the kind because I have got a good job"? A He didn't say that at all.

Q Well, he said he wouldn't do it? A He said he would rather stay home and live in Brooklyn.

Q Because he had a good job? A Yes, sir.

Q You have pleaded guilty, haven't you, to manslaughter?

A Yes, sir.

Q And so has Goldstein pleaded guilty to manslaughter? A I think so, I don't know.

Q You just said a moment ago you pleaded guilty before Judge Nott? A I said I pleaded guilty. I don't know whether Goldstein pleaded guilty.

Q Don't you know as a matter of fact that he pleaded guilty of manslaughter? A I don't talk to him. I never talked to him.

Q Didn't you speak to him over in the Tombs? A No.

Q Didn't you know that he was sent to prison for nine years? A I heard it.

Q And you have not been sentenced yet? A No, sir.

Q And you pleaded guilty before another judge, not his Honor, Judge Nott? A I can't just say what judge.

Q Don't you know his Honor? Is that the judge you pleaded guilty before? A Yes, sir.

Q Now, your Honor is not the judge? A I do.

Q Have you not been sentenced yet? A No, sir.

Q When did you plead guilty? A Several weeks ago.

Q How long ago? A A week? A Several weeks ago, I

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said.

Q Your sentence depends upon the result of this case, doesn't it? A I don't know.

Q I suppose the District Attorney did not promise to get you off light? A He didn't promise me anything.

Q You wouldn't say so, anyhow, would you? A I would tell you the truth.

Q You know what the word truth means? Did you ever tell the truth in your life? A I am telling you the truth now.

Q Because you want to save your scalp, is that the idea? A No, sir.

Q Don't you know that you were indicted for murder in the first degree? A I was.

Q Don't you know that you were told that you would save yourself from the chair and from life imprisonment if you would testify in this case against this poor boy (indicating defendant)? A No, sir.

Q Nevertheless, you were permitted to take the plea of guilty upon your confession of having struck this Chinaman down? A No, sir.

Q Didn't you tell the District Attorney what you had done to this Chinaman? A I told him just what I told you.

Q Yes, you told me that you and Goldstein went down and struck this Chinaman down, didn't you? A I told him what I

told you I hit him once

with the blackjack.

Q And notwithstanding that, and knowing all your past history, you pleaded guilty to manslaughter? A I did.

Q And no promise was made to you? A No, sir.

Q Do you know that every bomb you shot off is a crime?

A Yes, sir.

Q Punishable by fifteen years in state's Prison in each instance? A Yes, sir.

Q And you shot off thirty-three? A Yes, sir.

Q And killed a Chinaman besides? A I didn't kill any Chinaman.

Q Well, you helped to kill him? A I was implicated ---

Q You were the one that struck the blow? A I was implicated in it.

Q You were the one that struck the blow? A I struck the blow with the billy.

Q What did you want to hit him with, a sausage?

Objected to. Question excluded.

Q Who struck the first blow, you or Goldstein? A Goldstein.

Q Goldstein struck the first blow? A Yes, sir.

Q And he hit him with a piece of iron pipe? A Yes, sir.

Q And you had the billy? A Yes, sir.

Q You did not believe that the blow that Goldstein struck was sufficient to knock the chinaman out, so you thought you would deal the death blow? A Well, it was not sufficient, he came for Goldstein.

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Q Well, that is what I say, it was you who put the finishing touches on that poor Chinaman? A No, sir.

Q Well, that was the last blow he received? A He got three or four after that.

Q Who gave him the three or four? A Goldstein.

Q With what? A With the iron pipe.

Q Where did he hit him? A On the head some place; I didn't just take notice where he hit him.

Q He hit him three or four places on the head besides the one he had struck after the one you struck him with the billy?  
A Yes, sir.

Q So when the doctor says he only had one wound --- A Well, I don't know what the doctor says. I am telling you what happened in there.

Q And you were in there looking at Goldstein striking this Chinaman down? A No, I was in the back room, and I heard the sounds.

Q You were in the back room looking for the money? A Yes, sir.

Q Why didn't you get that \$4.85 that was in the drawer.

Q That was left for the defendant to get it.

Q He was not down there, was he? A Why, certainly he was.

Q Down in the stone? A Why, certainly he was.

Q Sure about that? A Why, certainly he was. I wouldn't be here if he was not down there.

Q You wouldn't be here? A I wouldn't be on the stand

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testifying against him if he was not down there.

Q You are sure about that? A Yes, I am sure about it.

Q This defendant was down in that Chinese laundry? A Yes, he was down in the store.

Q Now, have a conscience. Will you tell the jury the truth?

A They are getting the truth now.

Q You saved your criminal life. Now, remember that. Be truthful against this boy? A I didn't save my life.

Q Well, you got away with a plea. A Well, ---

Q You will have a criminal record. Now, be good, at least.

A Well, that is up to the lawyers. That is up to my lawyer.

Q What? A That was up to my lawyer to get that plea.

Q Who is your lawyer? A K. Henry Rosenberg.

Q Was he assigned to you? A Yes, sir.

Q Didn't you refuse to talk to that assigned lawyer and said to him that the District Attorney was your lawyer? A No.

Q Sure about that? A Yes, sir.

Q You know Mr. Gruber, don't you? A Yes, sir.

Q Didn't you refuse to speak to Mr. Gruber? A No, sir.

Q And said that the District Attorney was your lawyer? A No.

Q And that you would do what the District Attorney told you to do, and no more? A No, sir.

Q Was your lawyer in court when you pleaded? A Yes, sir.

Q Which one, Mr. Gruber or Mr. Rosenberg? A Mr. Rosenberg.

Q You didn't know either of these gentlemen, did you, before the Court assigned them to defend you? A Before assigned

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to me, no, sir, I didn't know them.

Q Do you know Mr. Gruber when you see him? A I believe I do, yes.

Q You believe you do -- you are not sure of it? A I know him.

Q He is one of your lawyers? A Yes, sir.

Q He was assigned by the court? A Yes, sir.

Q Did they visit you in the Tombs? A Yes, sir.

Q Did you have any consultation with them? A Yes, sir.

Q And during those consultations you want to tell the jury that you told them you didn't want to have anything to do with them because the District Attorney was your lawyer? A I didn't speak to them. I didn't tell them anything of that kind.

Q What did you tell them? A The truth.

Q What did you tell them? A I told them the truth, what I am telling you now.

Q You don't know what your sentence is going to be, do you?

A No, sir.

Q You don't know whether it is going to be a year or two?

A I don't know nothing.

Q Your sentence, I take it that you believe, depends upon the outcome of this trial? A No, sir.

Q Did you ask for an adjournment of your sentence? A No, sir.

Q It was put over? A Yes, sir.

Q Indefinitely? A I was in court.

Q You don't know when you are going to be sentenced? A No, sir.

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RE-DIRECT EXAMINATION BY MR. EDWARDS:

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Q I forgot to ask you, Lehman, whether or not you had seen this defendant, Achille while you were over in the Tombs?

A I did, yes, sir.

Q Have you had any talk with him while you have been in the Tombs? A I did, yes, sir.

Q Can you state about when it was? A I was to church Sunday mornings, and also during the other exercises every afternoon.

Can you tell us the substance of what he said to you since you have been over in the Tombs? A He says it all depends upon me whether I take the stand against him. He says everything else -- that his lawyer says that there was nothing against him, it only depends on me, if I appear against him.

Q Did he say anything to you about your taking a plea?

A No, sir.

Q Nothing at all? A No, sir.

Q Now, these bomb cases that counsel has been talking to you about: by whom were you employed to place these bombs?

A By Polaro.

MR. BRANDE: I object to that.

THE COURT: Well, you have gone into the facts and circumstances of the case and I will allow the District Attorney to ask that.

MR. BRANDE: Objection withdrawn.

Q Who was Polaro?

MR. BRANDE: I object, "Who was Polaro", in no way

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connected with this defendant.

Objection overruled. Exception.

A He is the leader of our bunch around Elizabeth street and Houston, who made the bombs and blackmailed -- and wrote letters to different parties and sent us out with the bombs.

MR. BRANDE: All under my objection and exception.

Q Did Polaro make the bombs?

Same objection, ruling and exception.

A Yes, sir.

Q Who else worked with him in making them? A Myself, Zunk, Scapone, Patrini, Joe Fay and Lutz.

Q Was Rocco Cassetta one of your crowd? A No, sir.

Q Was Burke one of your crowd? A Yes, sir.

Q How many cases have you testified in? A I have testified in two cases. This is the third.

Q The other two were bomb cases? A Yes, sir.

Q When did you last see Zunk and Burke? A This morning.

Q Where? A Over in the annex.

Q When did you last see Scapone and Polaro? A The last time I seen Polaro was at Hackensack jail.

Q Do you know where he is now? No, sir.

Q When did you last see Fay? A Fay? Down at --- the 23rd of September, 1913.

Q Do you know where he is now? A No, sir.

Q You testified in the Sylvestro case, didn't you? A Yes, sir.

Q Was Mr. Brande Sylvestro's lawyer, and did he examine you

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in that case? A Yes, sir.

Q What part did Sylvestro take in this gang?

Objected to. Objection sustained.

Q Who paid you for placing these bombs?

Objected to. Objection overruled. Exception.

Polaro.

Q Were you paid a percentage of the amount of money recovered, or were you paid anyway? A It was divided up amongst the crowd even. Every one got his share.

Every one got his share? A Yes, sir.

Q And there were about ten of you, I believe you said? A About seven of us.

Q Counsel asked you if you knew how many bombs had been exploded in New York during the last year and you said about 115? A Yes, sir.

Q Do you know how many have been exploded in New York since you told your story to the District Attorney? A Very few.

Q Can you tell us approximately how many? A I think about three, that I read about.

RE-CROSS EXAMINATION BY MR. BRANDE:

Q You remember at the Sylvestro trial you denied having any connection with the killing of the Chinaman, didn't you?

A What is that?

Q Don't you remember when I asked you in the Sylvestro case as to whether you had gotten \$2 for killing a Chinaman, you said you never hit a Chinaman? A I refused to answer that question

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at that time.

Q Don't you remember saying, "I had nothing to do with it"?

A I refused to answer that question.

Q Don't you remember saying that? A I didn't say that.

MR. BRANDE: Oh, well, all right.

BY MR. EDWARDS:

Q That was before you pleaded guilty? A Yes, sir.

Q And you claimed your constitutional privilege not to testify as to a matter in which you were under indictment? A Yes.

MR. BRANDE: He didn't do that at all.

THE COURT: It is easy enough to prove what he did say. He says that is what he did. If he didn't do that you can prove it.

THE COURT: (Now addressing Jury) Do not form or express any opinion as to the guilt or innocence of this defendant, and also please refrain from discussing the case with any person, or allowing any person to discuss it with you or to discuss it in your presence, till the case is finally submitted to you. We will adjourn now till 10:30 tomorrow morning.

(Adjourned to Tuesday, June 9th, 1914, at 10:30 a. m.)

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(PEOPLE vs. NICHOLAS ACHILLE)

New York, June 9th, 1914.

TRIAL RESUMED.

F E L I X Di M A R T I N I ( Detective Division, 29th Precinct) called as a witness in behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are an officer of the Municipal Police Force of this City, are you not? A Yes, sir.

Q And have been for how long? A Over nine years.

Q You were assigned to the Detective Bureau? A I am.

Q And have been for how long? A Why, on and off about seven years.

Q Did you place this defendant under arrest? A I did.

Q When and where? A On Stanton street, between Forsyth and Eldridge.

Q And when? A On October 25th, about 8:30 p. m.

Q That was this last October, 1913? A 1913.

Q When you arrested him did you tell him what charge you arrested him on? A I did.

Q Just tell us what you told him? A As soon as I placed him under arrest, the first words he said, "Oh", he said, "Pshaw! This is a disgrace on me." I said, "What makes you talk that way?" Why he says, "I don't know; I ought to have known better." I says, "You know what it is for, - about the Chinamen

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in 54 Stanton street?", and in answer to that he says, "Why, let me run, shoot at me and kill me, and you would have a good excuse to say that I was trying to get away from you." I said, "Why, you need not be so foolish, you are only a young boy". So he said, "I expected this. It is a disgrace. I have got a good job, I have been working steady."

Well, I said, "If you thought that this thing was coming on, why didn't you surrender or give yourself up?" I said, "I said, "I have got to do my duty. That is all to your favor; if you have been working tell the truth about it. That is all there is to it."

Q What did he say then, anything? A Finally we were talking going along and well, he says, "I don't know nothing about the chinaman, I would sooner not talk."

Q Then where did you take him? A Then I took him, I took him to police Headquarters and there I met Fogarty, and then we spoke to him some more and asked him if he knew Smitty. He said "Yes".

Q Whom did you mean by Smitty? A Lehman. That was, I asked him if he knew Little Wop. Well, he said he knew a few Wops, he didn't know really which one we were referring to.

Q Well, which one were you referring to? A To Di Antonio.

Q One of the defendants in this case? A Yes. So I asked him then that he should go with us to the House of Detention. So he went with us to the House of Detention, where he was shown to Jarucpuelli -- that would be junk -- and junk said he didn't

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3 know him. From there we went to Bellevue Hospital where De An-<sup>84</sup>tonio was in the hospital there, and we asked De Antonio if he recognized anybody. He said "Yes", that is the man that was with me when the Chinaman was killed --- or "With us when the Chinaman was killed.

Q Had you before the arrest of this defendant had any interview with Antonio De Antonio? A Oh, yes.

Q Was it as a result of that conversation with De Antonio that you placed this defendant under arrest? A Well, it was the result of conversations had with Smitty and De Antonio.

Q With Lehman and De Antonio? A Yes.

Q And by what name had Lehman and De Antonio spoken of this defendant in their talk? A As Coco.

Q After you had taken the defendant to Bellevue and De Antonio seen him and said what you have just related, what did you do with him? A Why, then we took him to the East 67th street police station, which would be the 31st Precinct. And the District Attorney's office was notified and Mr. Skinner, from the District Attorney's office came to the station house and took his statement with a stenographer.

Q Do you remember what the stenographer's name was? A Mr. Hamill was the stenographer.

Q Do you remember who else was present at the time the statement was taken? A Acting Captain Jones, Detective Fogarty, Inspector Cahlane, Detective Sullivan and, I think Detective Kelly was there.

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Q Were you present during the entire taking of that statement? A I was.

Q Did Mr. Skinner say anything to this defendant that you heard before he took the statement? A Yes, sir.

Q Do you recollect what that was, in substance? A He told him that he was a member of the District Attorney's office and that he was investigating the death of one Charles Lem, killed on August 18th, 1912, and that if he had anything to say that he would like to hear it; that anything said might be used against him; that if he didn't want to say anything he didn't have to.

Q Do you recollect what the defendant said in reply to that? A He replied that he was willing to tell and that Lehman before the killing of this Chinaman had also killed another Chinaman on Forsyth street, he was not sure. At least he said that Lehman had attacked another Chinaman on Forsyth street.

Q You cannot recollect that statement of the defendant's word for word, can you? A No.

Q It was taken down by stenographer Hamill at that time?

A Yes, sir.

THE COURT: Is it going to be consented to allow the statement in?

MR. EDWARDS: I don't know. I was going to call the stenographer and Mr. Skinner and then offer the statement.

THE COURT: If the defendant objects to the statement,

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to the transcript going in, you will have to prove it by memory.

MR. EDWARDS: I was going to get the recollection of the stenographer, refreshed by his original notes. It seems better to prove it by the stenographer who took it, with his memory refreshed.

THE COURT: If the transcript is admitted, yes; but if not, you had better have the recollection of as many witnesses as you can.

MR. BRANDE: No, sir, I do not consent to it.

Q Give us your recollection of what the defendant said. A He stated the motive of going to this Chinaman was to rob the Chinaman, and he mentioned about Goldstein and Smitty and another little fellow -- he didn't know his name -- being in on it. He said it was spoken about the night before, and that he was to be one of the lookouts, and that when Goldstein and Smitty went down to the basement he and the other fellow remained on the outside, upstairs. After they were down a short while he went down and opened the door and as soon as he saw the blood over the floor he immediately ran out. I think he also said something about meeting him and about telling him to get out of the City.

BY THE COURT:

Q What did he say? Give your best recollection as to what he said? A If my recollection is right, he met many and he

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many and he said he was afraid he would be picked up and that they met Sunday morning near the Hippodrome on Houston street, near Eldridge -- or on Eldridge near Houston, and that one of them was to go down with a shirt to see if there was anybody in the place before ---

BY MR. BRANDE:

Q Are you testifying now from what Smitty told you? A No, no; I am testifying from what the defendant told me, from his statement. That is about all I can recall of it at present. That is practically the substance of it.

BY MR. EDWARDS:

Q Have you stated all that you can recollect? A That is all I can recollect at present.

Q Do you recollect whether anything was said at any time in the course of his examination with respect to how the killing was done? A Why, I am not so sure of that, but there was something spoken about the Chinaman being struck with a bar or piece of pipe, and it was carried under a coat.

BY MR. BRANDE:

Q There, now, you were ready with the question that Smitty told you that ---

THE COURT: Wait a minute, you are not cross examining him. Wait until your cross examination comes.

BY THE COURT:

Q Now, when you say "as said" do you mean said by the defendant?

Yes.

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MR. BRANDE: I object to the leading. He is the officer in the case. He must relate what the defendant said, in so far as he can remember.

THE COURT: He has exhausted his recollection. He can simply direct his attention to topics, he cannot suggest any particular thing.

BY MR. EDWARDS:

Q What was said? A That the coat belonged to Goldstein.

Q Is that the substance of all you recollect that the defendant said at that time? A That is practically all I can remember at present.

CROSS EXAMINATION BY MR. BRANDE:

Q On what day do you say you arrested the defendant? A On October the 25th, 1913.

Q Where did you arrest the defendant? A On Stanton street, between Forsyth and Eldridge.

Q Before you arrested the defendant you had been over in Jersey with smitty, the witness who took the stand yesterday, by the name of Lehman? A I had been to Jersey, yes.

Q And when you went over to see Mr. Lehman, who took the stand yesterday, you knew he was in jail? A He was.

Q And when you got over to interview Mr. Smith, there were some things you told Smith, that you had him dead to rights for shooting off bombs in the city of New York, and that you had some one to squeal on him, didn't you? A I spoke to him about bombs, but I didn't speak to him in the words that you say.

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Q Well, in other words you spoke to him, and you tried to make him believe that your mission over to the Jersey jail was that you had evidence against him for blowing up the bombs in the City of New York? A No, I just went over to speak to him, and told him did he know about the different explosions that took place in New York. I didn't accuse him of it.

Q Do you mean to tell me that you only went over to Jersey, in the jail, and with a polished way said, "I heard that you shot off a bomb"? A My mission over there was altogether different. When I first went over there I had a prisoner for the Jersey authorities. I didn't know that Lehman was there -- it was an accident that I met him there.

Q And you spoke to Lehman? A I did.

Q And Lehman gave you the story about the killing of a Chinaman? A He did not. He refused to talk to me. He didn't want to have anything to do with me. It was two days after.

Q Did he speak to you about the bombs? A It was two days after when he requested the District Attorney --

Q Well, let us get down to two days afterwards, to the time it happened, whether two days, three, four or six days, get down to the bomb? A About two days after.

Q You told him --- A If you please wait, I will tell you how I happened to come there the two days after. Because we went there at Lehman's own suggestion; he requested that the prosecutor of Bergen County send for the two detectives, that he wanted to talk to them, and we went over upon receiving that

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request from the prosecutor -- Mr. Wright, of Hackensack.

Q Didn't you say to Lehman: "You might just as well make a clean breast of this now, because Zink, and all the other fellows are squealing on you", and in pursuance of that you went over there with an automobile and a stenographer and an Assistant District Attorney and I don't know what not, and had a three days conference almost? A No, you are getting the thing all twisted.

Q No, I am not. Answer it yes or no -- don't tell me that.

A No, sir; no, sir, you are misrepresenting the thing.

Q I am asking you the question? A Well, it is no.

Q I was not over there, I know that. But you did go over there with a stenographer to Jersey? A Yes, sir.

Q In an automobile? A No, sir.

Q Sure about that? A Lehman was not there, no, sir.

Q I am talking about your going to Jersey? A I went over yes.

Q In an automobile? A Yes.

Q With a stenographer? A With a stenographer.

Q You went to this jail too? A I did.

Q And you questioned Lehman? A We did.

Q And you had all that story that Lehman told you invented in your mind, did you? A Well, I can't very well answer that question, because it wouldn't be a right answer to your question.

Q Were you present when Lehman spoke? A I was.

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Q Didn't you know that what Lehman was speaking of at that time you would have to repeat at some other time? A Yes.

Q So then you had it imbedded in your mind? A Why, yes, I knew of it.

Q And then didn't you take Lehman out automobiling? A No, sir.

Q Which one of the three did you take out automobiling, Zunk, Lehman or Goldstein? A We didn't take anybody out automobiling.

Q Did you bring them back in an automobile? A We went over with ---

Q Will you answer my questions? A Well, Counsel, you are making it appear as though I had him out on a joy ride; that is not so.

At any time, was any one of these men in the automobile?

A Some of them were, but not Lehman.

Q Which one? A That was Scapone, Levatino, Gumbrino and Diogardi.

Q Not Lehman? A Not Lehman.

Q Not Goldstein? A No, sir.

Q Not Zunk? A No, sir.

Q None of them? A No, sir.

Q How did you get Lehman to make a statement? What inducement did you give him? A No inducement whatsoever.

Q You knew him? A No, sir.

Q Didn't know him? A I did not.

Q You looked up his record afterwards? A After he spoke to

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me?

Q Yes. A Yes, sir.

Q You found out what character he was, did you not? A Yes, sir.

Q How long have you been with the Police department? A Over nine years.

Q Knowing his character, would you believe Lehman under oath?

A Well, unless I got some other corroboration outside of his own testimony.

Q You would not believe Lehman under oath, would you?

MR. EDWARDS: Objected to.

A If I could verify what he said.

Q Now, knowing Lehman's character ---

MR. EDWARDS: I object to that question whether this witness would believe him under oath.

THE COURT: Question allowed, on cross examination.

Q Would you believe Lehman under oath -- as a Lieutenant of the Police Department? A Unless I could verify what he said to be the truth.

MR. BRANDE: I want an answer yes or no.

Q Knowing the character of this man Lehman, would you believe him under oath, as an honest man?

THE COURT: He says no, unless he could verify it.

MR. BRANDE: It is a vague answer, I submit, your Honor.

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MR. EDWARDS: I think it is a pretty substantial answer.

Q How long did you stay there with Lehman there in Jersey?

A On what occasion? The first visit or the second?

Q The time you had the stenographer there? A I must have consumed about five hours, I presume or four hours.

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Q Interrogating him all the time? A Yes, sir, on and off.

Q In other words, you would continue for an hour or so, and then put him in a cell and come back? A No, no putting in cells. He was seated there at the table where the stenographer was.

Q And you informed Lem that the boys in New York were squealing on him, that he had better strike back and squeal on the others, so that he could save himself, didn't you? A No, sir.

Q Never said anything like that at all? A That I didn't say, positively.

Q Nothing in the nature of that kind of conversation?

A Well, what would you term the nature of that conversation? If you explain perhaps I could tell you better.

Q You gave the boy no inducement to talk? A No inducement. All I asked him, I told him to tell the truth. That was about the only inducement I gave him.

Q After that you say you arrested the defendant here, Achille? A Yes, sir.

Q After you placed this defendant under arrest where did you take him? A I first walked into Police Headquarters.

Q How long are you a police officer? A Over 9 years.

Q How long are you a lieutenant? A We are not lieutenants, we are only acting detective sergeants. We are not



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lieutenants.

Q Well, now, will you please explain to the court and to the jury what law authorizes any police officer, when he makes an arrest, to take him elsewhere than to the first precinct which he is amenable to and therefrom to the First Magistrates Court? A We have no set rule. Anybody connected with the detective bureau can take him to any precinct within the city, and at that time, being it was a felony, there is no court in session, therefore he is kept in custody of the Police Department.

Q At what time did you arrest the defendant? A It was about 8:30 P. M.

Q On what day? A It was a Saturday night.

Q There are night courts, are there not? A Well, night courts don't have jurisdiction of felonies, do they?

Q Are you acquainted with that law which requires that immediately after the arrest a defendant must be brought before the nearest Magistrate that can be found? A I don't understand to that effect.

Q And you are on the Police Department for nine years? Well, anyhow, you took him to Police Headquarters? A I did.

Q After you took him to Police Headquarters, all the detectives got around, I suppose? A No, sir; there was myself and partner and probably another detective.

Q At no time was he threatened? A Positively not. He can tell you himself.

Q Treated like a perfect gentleman? A He certainly was.

Q Like they all are? A As far as I know, they are.

Q You are quite an expert detective in the bomb proceedings, are you not? A Well, I specialize on bomb work, yes, sir.

Q Do you remember old man Farrell who was arrested up in the Bronx? He made a confession that he fired the bomb off up there. A I remember reading about it, that is all.

Q He confessed that he fired the bomb, do you remember that?

THE COURT: What has that to do with this case?

MR. BRANDE: On the question of obtaining confessions by police officers.

THE COURT: Was this officer involved in that case?

MR. BRANDE: They are all at headquarters.

THE COURT: Was this officer connected with the case you are mentioning?

MR. BRANDE: I don't think so. He says he specializes in bomb cases, and when these occur they are all in the line-up at headquarters.

THE COURT: Was he connected with that case?

MR. BRANDE: That I don't know.

THE COURT: Ask him. If he was not, I do not see that it has any materiality.

MR. BRANDE: I want to show the animosity of witnesses

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in these cases, where they come in with alleged statements made by defendants.

THE COURT: Show it then, but you cannot show it by proving what other officers did in other cases.

MR. BRANDE: That is the question, but I think I can do it.

Q Do you remember who was connected with the Farrell case?

A If my recollection serves me right I think I seen Captain Price was one of the men connected with it, but I was not familiar with the case, I had no part of it.

Q You remember also in that case, if you know, that there was a confession by Farrell that he was the man?

THE COURT: Now, I have ruled on that. That is excluded.

Q Well, you took the defendant to Police Headquarters?

A I did.

Q From there where did you take him? A We went to the House of Detention.

Q What did you take him there for? A To see if Zunk was there.

Q After you took him to the House of Detention, where did you take him? A Away up to Bellevue, where De Antonio was.

Q After that where did you take him? A From there to 67th Street station house.

Q And from the 67th Street station house, where? A He

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remained there till Mr. Skinner and the stenographer came up and took the statement and then he was placed in the cell.

Q During all this time this boy was not represented by a single friend or a lawyer? A Well, he was not represented by counsel, no.

Q All you detectives had him in custody? A He was in our custody.

Q Handcuffed, of course? A No, I am not so sure. Part of the time he was and part of the time he was not. When I first got him he was not handcuffed, positively not, because I told him I felt sorry for him.

Q You felt so sorry for him that you didn't think it worth while to advise some of his friends of his plight, so they could assist him? A That is a privilege he has when he is in the station house, that his friends may be notified. It would not be right for myself to do that.

Q So the friends should have fallen from the sky?

MR. EDWARDS: I object to that.

Q After you got through with the 67th Street station house where did you take him? A He was placed in a cell.

Q Where? A 67th Street.

Q And after that where did you take him? A Then I think he was brought down to the Tombs, if I am not mistaken, as he was under indictment. I am not so sure of that. That I am not positive --

Q Up to this time you had not arraigned this boy before

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a Magistrate or any other officer for a hearing? A Not that -- I am not so sure, I won't say that; I am not positive.

Q Do you realize that this boy is charged with homicide, murder, in the first degree? A I certainly do.

Q You just testified in answer to the questions of Mr. Edwards as to some statements made by the boy and you don't remember your manoeuvres with this boy? A Anything I testified, that I know exactly what happened, I will say so, but something I have a doubt about I will not say.

Q Did you arraign this boy at any time before any official, before any judicial officer, as he is entitled under the law, for a hearing? A He must have been arraigned. I don't know whether I done it myself or Detective Fogarty.

Q Is Detective Fogarty in court? A He is.

Q Did you at all times go with Detective Fogarty? A Yes.

Q And then don't you know now, or can't you remember, whether or not you fulfilled the requirements of the law to arraign this defendant on this very serious charge before any official in the City of New York? A The requirements of the law was fulfilled, because if we hadn't I would have been on charges, that is positive.

Q Don't you know now that as a matter of fact, you didn't fulfil the requirements of the law? A I couldn't say if I took him to court, or Detective Fogarty took him to court; I wouldn't say positively.

Q Officer, don't you know that this is a very serious

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matter? A I certainly do.

Q And you mean to tell these twelve gentlemen that you don't know as a nine years experienced officer whether or not you arraigned this defendant before some officer of the law?

A I don't know if he was sent right over to the Tombs under an indictment or if he was arraigned before a Magistrate, but I think he was brought over to the Tombs on a bench warrant which was issued for his arrest, I believe; I am not so sure of this and I will not say.

Q You had a Coroner's Inquest, didn't you? A I was not acquainted with the Coroner's Inquest, because I didn't handle the case.

Q Who arrested this defendant? A I arrested him.

Q What do you do with the defendants when you have them in the Police Department -- juggle with them? A No, we don't juggle with them.

Q If you arrested this defendant as the arresting officer, wasn't it your duty to pursue the case? A As one, yes, but I have a partner also.

Q Did your partner keep you informed from time to time as the results of what was being done with this boy? A We more or less keep informed.

Q Don't you know that the arresting officer is the officer who is the proper one to take care of his own case?

A There were two of us that are arresting officers.

Q Do you require two men to make an arrest? A Sometimes

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it may require more.

Q Yes, when there is a riot, for instance. A Why, that also can be taken as an instance.

Q It didn't require two men to arrest that big giant (pointing to defendant), did it? A It is hard to tell at times how many it requires. You can never judge by appearances.

Q So you want to place yourself in this position before this jury, that you do not know as the arresting officer as to whether this boy ever had a fair hearing before any official before today? A Why, he certainly did have a fair hearing, because --

Q Where did he have the fair hearing? A That I couldn't tell you. I answered that question.

Q If you cannot tell this jury where, why did you volunteer the statement that he certainly had a fair hearing?

A Because I would have been up on charges if there had been something irregular done.

THE COURT: Mr. Brande, there is no use wasting time over this thing. If this man had been indicted and a bench warrant issued he could only have been arraigned on his plea in General Sessions.

MR. BRANDE: If your Honor please, I am traveling on those lines. I want to acquaint the court with the facts. This boy was never arraigned anywhere. There was a writ of habeas corpus gotten and the defendant appeared

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before Judge Cohalan, and he was before every judge in this court.

THE COURT: Then he has had a number of fair hearings, if he appeared before every judge in this court. If he has been before a number of judges, he has had a number of hearings. I do not see what it has to do with the case. Let us get down to the case.

MR. BRANDE: I want to show the animosity of this officer in saying what this boy said. I think I am entitled to it, may it please the court. He does not remember whether he went to the prison or not.

Q How many times have you testified in this case? A I have testified once before the Grand Jury, and this is the second time.

Q This is the second time you have testified? A This--

Q I am talking now about before the grand Jury. A This is the first time outside of the Grand Jury.

Q Don't you know as a matter of fact that the indictment was dismissed against this defendant? A The indictment dismissed?

Q Yes, don't you know that? A No, sir, not that I know of.

Q Don't you know there were four indictments found against this defendant, because of the different motions that I made before the different judges? A Not that I know of.

THE COURT: How could this man know this, being in the

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Police Department, of the motions you made in court? It calls for hearsay.

Q Weren't you called before Judge Conahan in the Supreme Court? A I was.

Q Didn't you know that the indictment was dismissed after that? A I didn't know the indictment was dismissed.

Q Didn't you go before the Grand Jury after that? A I went before the Grand Jury once and then Detective Fogarty went before the Grand Jury.

Q You usually took turns going before the Grand Jury?

Objected to. Objection sustained.

Q Don't you remember that after that I made another motion before Judge Swan?

MR. EDWARDS: Objected to, calling for hearsay.

THE COURT: If the officer was present.

MR. BRANDE: I ask him if he knows.

THE COURT: How does it affect the case, if he does?

MR. BRANDE: He has testified to a certain state of facts and I want to show him the minutes of his testimony before the Grand Jury and see if the same thing he swore to then he swore to today.

THE COURT: Well, call his attention to what he swore to before the Grand Jury.

Q Don't you know that after the Inquest before the Coroner the verdict of that jury was that this Chinaman came to his death by hands unknown? A That I don't know.

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Q And you are the arresting officer in this case?

THE COURT: What is the date of the Coroner's Inquest?

MR. EDWARDS: September 29th, 1912.

THE COURT: The Inquest was over a year before this officer arrested this defendant.

Q Did you make any investigation to ascertain all these facts? A I didn't go into those facts. I went into the facts to see if I could locate the lead pipe that was alleged to be left behind, and the coat; because I was not assigned to the case at the beginning, I was not, I had nothing to do with the case.

Q Did you look up the character of the boy, the defendant here? A Why, I have spoken to a few people about him, yes.

Q You found him to be all right? A They speak well of him.

Q A hard working boy? A They say he works, yes.

Q An honest boy? A As far as I could learn, yes.

Q You would believe this boy in preference to Lehman, wouldn't you, under oath, from what you know?

Objected to. Objection sustained. Exception.

Q What I wanted to be particular about was this, I want to find out whether he was arraigned before the Coroner, if you know, at any time? A No, I don't think he was arraigned before the Coroner. When I arrested him I think that he went right over to the Tombs on a bench warrant issued for his arrest; that is the best of my recollection. I am not so



sure. Possibly Detective Fogarty can testify better than I can, on that point.

Q In other words, can Detective Fogarty enlighten me more on that subject? A I think he can.

Q Was the boy crying all the time during this interviewing? A Well --

Q Frightened like? A No. At the beginning he started to cry, felt a little sorry, and I told him to brace up, I said he would have to make the best of it.

Q How old did he say he was? A I think he gave his age about 19; 18 or 19.

Q At that time? A I think it would be 18 or 19.

Q 18? A 18 or 19.

Q So that this took place over two years ago, didn't it, this alleged homicide? A Yes, that took place on August 18th, 1912.

Q You know that the boy has been in the Tombs for 8 months? A Yes, sir.

Q And you know that this is the first time that you are sitting on a witness chair where the defendant was confronted with your testimony? A That is outside of the time of the arrest.

Q I am talking of the courthouse now. A Yes, sir, that's right.

Q And a judge presiding? A Yes, sir.

Q And a jury? A Yes, sir.

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Q This is the first time in his life since you arrested him that he is confronted? A This is the first time he is confronted.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q I forgot to ask you on your direct examination whether or not you made any search in this case, at my request, for the iron pipe and the coat. A I have.

Q What search did you make? A Why, Detective Fogarty and myself went to the property clerk at Police Headquarters, with the date of this alleged crime, and tried to locate that pipe and coat and could not find any trace of it. We then made a search at the 15th Precinct station house and could not find it.

Q When counsel has asked you with respect to your interviews with Lehman over in New Jersey, how many times did you go over to see him? A Possibly four or five times.

Q As I understand your testimony, on the first time he would not talk to you? A No. I asked him his name and so forth, and he says, "Ah, I got nothing to tell you."

Q Then after that you said that he sent for you and you went over again? A That was Detective Fogarty and myself, yes.

Q Did he tell you anything at that time? A He did.

Q How long were you with him on that occasion, approximately? A Why, about noon hour that day till probably 2 or 3

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o'clock in the following morning.

Q Did he tell you anything about this case at that time?

A No, sir, not at that time.

Q What was the subject of his conversation at that time?

A The second time, you mean?

Q Yes. A Why, he gave me information regarding the different bomb explosions in New York City, the people who were concerned in it, and also of setting fires, burglary being committed, stealing of horses and wagons --

BY MR. BRANDE:

Q Who was this? A This is about Lehman.

BY MR. EDWARDS:

Q Did you take that statement down in longhand at that time? A I did.

Q And then you came back to New York? A I did. No, I didn't come back to New York. After, a stenographer came over and the statement was dictated to a stenographer; then we came back to New York.

Q By whom was that dictated to a stenographer? A Why, myself, Mr. Manley of the District Attorney's office, and Mr. Wright, the prosecutor of Bergen County.

Q How long after that was it that you again saw Lehman?

A Probably a week and a half or so after.

Q And where? A At Hackensack.

Q Did you have any further conversation with him at that time? A We did.

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Q Did he tell you at that time anything about this case?

A Yes, sir.

Q Was that the first time it was mentioned? A It was.

Q Was this defendant's name mentioned by him at that time?

A It was.

Q That was after the statement made by him with respect to the bomb? A Yes.

Q (Continuing) Crimes? A Yes.

Q When was the next time you saw him? A When I went over with Assistant District Attorney, Mr. Breckenridge, I think it was, directly with a stenographer and took a statement from him.

Q That was in connection with this particular case?

A Yes.

Q When did you see him next after that? A At the time that we went over to bring him back to New York.

Q In the meantime, did you verify these statements that he had made to you? A I have.

Q And did you make any arrests after the verification?

A I did.

Q How many?

MR. BRANDE: I object to the form of that.

THE COURT: Do you mean in this case or other cases?

MR. EDWARDS: In other cases.

THE COURT: Objection sustained.

MR. EDWARDS: My purpose was in regard to counsel's

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questions to this witness as to whether he would believe him under oath and he stated he would believe him after corroboration --

THE COURT: Well, he has so testified. I will sustain the objection.

Q Was Fogarty with you when you took this defendant to the station house on the night of his arrest? A Yes, sir, he was with me when we went to the House of Detention, to Bellevue, and also to the station house.

Q I don't recollect where you say the defendant spent that Saturday night. Where did the defendant spend that Saturday night of the arrest? A At the 67th Street station house.

Q Do you know where he spent Sunday? Was it in the same station house? A I was not there Sunday. Fogarty probably could tell you that, because I think he went over Sunday.

RE-CROSS EXAMINATION BY MR. BRANDE:

Q Now, let us clear this up. I ask you the question -- this is the first time you confronted yourself with the defendant in a court? You said yes. That is clear, isn't it? A That is outside of having him arraigned for pleading. I seen him when pleading.

Q Why do you want to impair matters here? You know that pleading is not a trial. A Well, you tell me confronted in a court.



Q You were not confronted with him when he was pleading, were you?

MR. EDWARDS: I object to the counsel arguing with the witness.

THE COURT: You can answer that, if you can.

A Why, he was in court, I seen him in court.

Q But you had no business in court insofar as this case was concerned, on pleading day? A We are subpoenaed on pleading day.

Q What, in a murder case, in the first degree? A In all cases.

Q At no time did this boy ever say to you that he knew anything about the killing of this Chinaman, that he knew there was anything like that going to take place? A At the time?

Q Answer that fair and square. A Yes, sir, he said that, yes, sir. I will be fair and square, yes, sir, he did.

Q He said they were going to kill a Chinaman? A He said that they were going to rob a Chinaman. Not kill him. To rob a Chinaman.

Q Didn't know anything about to kill at all? A Why, he claims that when he went in --

Q I don't want his claim. He didn't say anything to you about that, did he, Di Martini? He didn't say anything to you about any knowledge whatsoever of the killing of any Chinaman? A He spoke about the killing, yes. That was our conversation.

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Q After you spoke to him about it? A Why, yes, I spoke to him and he answered me.

Q He told you he knew nothing about that, insofar as he was concerned, on that day when this thing happened? Didn't he say "I was with those fellows because they asked me to go with them, but I didn't know they were going to kill anybody"?

A He said if he thought they were going to kill a Chinaman he wouldn't have gone, but he said they went there to rob the Chinaman.

Q They went or he went? A He went. They all went.

Q Didn't he say "I was out on the outside"? A Then after he told me he remained out on the sidewalk with the other little fellow and they walked downstairs after the first two entered and as soon as he saw the place covered with blood he ran out.

Q He got frightened? A That was the first. Then after in the statement when I was present that Mr. Skinner took he also said something about going in and running out.

Q And during all the time that these statements were taken he was not represented by any counsel whatsoever?

THE COURT: That has been already asked and answered.

MR. BRANDE: That is all.

J O H N J. F O G A R T Y (Detective Bureau, 31st Street),  
called as a witness in behalf of the People, being first  
duly sworn, testifies as follows:

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## DIRECT EXAMINATION BY MR. EDWARDS:

Q You are an officer of the Municipal Police force, assigned to the Detective Bureau, are you not? A Yes, sir.

Q You have been on the force how many years? A Going on 13 years.

Q You work with Di Martini? A Yes, sir.

Q On the night that Di Martini placed this defendant under arrest, where did you first meet them after the arrest?

A At Police Headquarters.

Q About what time, if you remember? A I guess it was about 9 o'clock, 9 P. M.

Q Were you present at any conversation with the defendant?

A Yes, at that time I spoke to the defendant.

Q Tell us what you said to him and what he said to you.

A I asked him if he was the Coco that was mixed up in that Chinaman's case, and he said no. "Well," I said, "if you feel that way about it we will soon find out whether you are or not;" and we went right up to the House of Detention to see if he was Coco, because Zunk and Burke knew the man that we were looking for.

Q And you went up there and from there you went where?

A When we got to the House of Detention Burke and Zunk refused to identify him -- they did not identify him. We went from there up to the Prison Ward, up to Bellevue Hospital, where De Antonio was under arrest, and De Antonio identified him as Coco, the man who was one of the four men who went to

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the Chinaman's place for the purpose of robbing him, and the Chinaman was killed.

Q What did the defendant say when De Antonio said that in his presence? A He didn't say anything.

Q Said nothing at all? A No, sir.

Q Then where did you take him? A Took him up to 67th Street, up to the 31st Precinct station house.

MR. BRANDE: I move that all that evidence be stricken out.

THE COURT: On what ground?

MR. BRANDE: On the ground that it is incompetent, immaterial and irrelevant, and not binding upon the defendant -- a boy under restraint, taken from pillar to post, the officer suiting his own convenience.

THE COURT: The officer did not testify where he took the defendant after he was arrested. Objection overruled.

MR. BRANDE: Exception.

Q Did you have any further talk with him that night?

A The District Attorney's office and the Coroner's office was notified, and Mr. Skinner of the District Attorney's office, along with the stenographer, Mr. Hamill, came down and took a statement.

Q Were you present while the statement was taken?

A Yes, sir, I was.

Q What did Mr. Skinner say to the defendant before taking his statement, if anything? A He warned him of his

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rights and told him he was --

MR. BRANDE: I move to strike that out.

THE COURT: Motion granted.

A (Witness continuing) Well, he told him he was entitled to the advice of a lawyer and told him he didn't have to say anything only of his own free will, and anything that he would say at that time would be used against him.

Q What did the defendant say to that? A The defendant told him he would tell him -- I think the substance of what he said was that he would tell him a short, brief story, or something -- I am pretty sure he used the word brief.

Q Will you tell us just the substance of your recollection of what he said at that time? A Yes, sir. He said that he, Goldstein, Smitty and the kid -- he called De Antonio the kid -- he said they met on Eldridge Street or Eldridge and Houston Street on that Sunday morning and they went up to the laundry for the purpose of robbing the Chinaman. When they got to the laundry he stayed outside -- he was to give a warning if anybody came along, he and the kid. Goldstein and Lehman went down into the laundry, and in about five minutes he went down into the laundry, and the only one he saw in the laundry was Lehman, and he saw the Chinaman. The expression that he used was that he was all blooded up, and he ran out and ran away. That is about the substance, as near as I can remember it.

Q And is that all you remember about it, officer? A He

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said something about Lehman and Goldstein having their coats off, and Goldstein having something under his coat.

Q That is your recollection of what occurred at that time? A Yes, sir, that is all I can remember.

Q Can you tell us what was done with the defendant that night? A The night he was arrested? Why, after Mr. Skinner got his statement the Coroner's office was called up and was told that a prisoner was up there in a homicide case, and the Coroner's office was asked if it was necessary to bring him down the next morning. The Coroner's office replied by saying no.

THE COURT: This is not material.

MR. BRANDE: I want that to go in, I won't object.

THE COURT: Very well. This is a matter of cross-examination.

Q You had a conversation anyway with the Coroner's office?

A Yes.

Q As a result of that conversation what was done with the defendant? A The defendant was kept in the 31st Precinct station house until Monday morning and arraigned before the Coroner.

Q By whom? Who took him down there? A Why, Di Martini and myself.

Q And then he was arraigned before the Coroner? A I believe it was Coroner Feinberg, and he was committed to the Tombs.—That is done in a great many cases.

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## CROSS EXAMINATION BY MR. BRANDE:

Q You say he was arraigned before the Coroner? A Arraigned before the Coroner in the Coroner's office.

Q Oh, the Coroner's Court? A Not in the Coroner's Court, in the Coroner's office.

Q He was simply brought before the Coroner? A In his office.

Q A short affidavit was drawn on suspicion by one of you officers, charging this defendant with having committed the crime of homicide, was it not? A Yes, I believe --

Q No, now, officer -- A Now, go along slow and we will get along all right.

Q You arrested this boy, you and Di Martini? A Yes, I participated in the arrest.

Q You have been in court hearing all the time that Di Martini has testified? A Yes, sir, I was.

Q You heard everything he said? A Very near. I sat pretty well in the back, I couldn't hear everything.

Q I saw you right in front. A Well, where he is sitting now.

Q He is your side partner in this case, as he had said?

A Yes, sir.

Q About that I don't know personally. A Yes, you do.

Q You know almost what he knows about this particular case. A Well, yes.

Q When a defendant is arrested on a charge he must be ar-

raigned before some committing officer, must he not -- a Magistrate, officer? A No, no.

Q He don't? A No.

Q Where do you get that law from? A Well --

Q Where do you get that law from? A I don't know where we get the law from.

Q In other words, you take it into your own hands? A If you just let me answer I will try and tell you something. You will find out-if you ask the Coroner's office, they will tell you that the Police Department have not been arraigning prisoners charged with homicide before Magistrates; they have been taking them to the Coroner's office.

Q Well, that is a rule, but not a law. A Well, I don't know whether it is the law or not.

Q Well, as an officer of the law, I suppose you ought to at least know that a prisoner is entitled to his legal rights.

A I am satisfied the Police Department is right on that, because if they were not right on it we wouldn't go as far on it as we have gone.

Q Don't you know today that is not the law? A I am satisfied today it is the law.

Q The law requires that a prisoner must be arraigned before the nearest Magistrate and given a hearing. A Well, I believe a Coroner is a committing magistrate or a judge of some kind, isn't he?

Q Did he get a hearing? A Why, he got a hearing before

the Coroner.

Q When? A And I believe you were there.

Q I was there? A Yes, if I am not mistaken.

Q When was that? A Why, when Achille was arraigned before Coroner Feinberg, I believe you were there.

Q Are you as sure of that as everything else you have testified to? A I am not so sure about it, but I have an idea you were there.

Q Don't you know that I have been fighting this case for eight months just because I never knew anything about it and couldn't find anything about it -- making motions upon motions --

MR. EDWARDS: I object to that question.

THE COURT: You have been fighting it for eight months because you knew nothing about it?

Q Don't you know that the first appearance in this case of Mr. Brande, meaning myself, was when I took the defendant down on a writ of habeas corpus before Judge Cohan in the Supreme Court? A Well, I know that you have been trying right along to have the different indictments thrown out; I know that.

Q And wasn't it thrown out? A I don't know about that.

Q Don't you know, or don't you want to commit yourself?

A Well, I will tell you that I do know from what I have been told. I have been told that you were not satisfied with

the corpus delicti in this case.

Q What does that mean, corpus delicti? A Well, it is the proving of the body and the identification of the body, that is about all.

Q Is that all? A Yes.

Q And you don't know the indictment was dismissed by Judge Wadhams? A The indictment was dismissed because there was a superseding indictment right away.

Q Certainly, you found four or five indictments in this case? A Yes.

Q Before you could get -- A Don't say I did that. I had nothing at all to do with that. I am only the arresting officer in this case, that is all.

Q Well, let us come down to the Coroner's Court. Of course we want to clear that atmosphere right up, saying that I was at any time before the Coroner. A I should not be a bit surprised if you were there; I am not sure.

Q Don't you know that this is murder in the first degree, and don't you know whether or not you were there? A I am not saying sure about that, but I am saying I am under the impression that you were there.

Q Why, they never held an Inquest when this defendant was present. A There was an Inquest held on this case long before this man was arrested.

Q Yes, sir. A And in a case like that they don't go into an inquest again. You know that, counselor.

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Q But he never had a hearing? A He had a hearing and he could say all he wanted right before Coroner Feinberg that morning.

Q So the hearing he had is to have him speak? A He could say anything he wanted.

Q Certainly; that is what you had him all the time for, to have him say anything he wanted. A And if he made a request at the station house for you to come up there at the station house and see him, you know you could have seen him up there at the station house, couldn't you?

Q If you had been good enough to tell him where to get me.

A It is not up to a police officer to go and get a lawyer for a defendant.

THE COURT: Now, do not have this discussion about law going on between the witness and counsel. If you have any facts to bring out, bring them out.

H U G H M c G R A T H, (Detective Division, 15th Precinct), called as a witness in behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are an officer of the Municipal Police force?

A Yes, sir.

Q On the 18th day of August, 1912, did you go to the premises 54 Stanton Street? A No, sir.

Q At any time? A On Monday, the 19th.

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Q Up till Monday. Did you at any time see the piece of pipe and the coat that were brought back by Officer Boeger in this case? A I did.

Q When? A On Monday, the 19th of August.

Q Where? A In 1912. In the 15th Precinct Police Station.

Q Did you have them in your possession at that time?

A Detective Brennan had them.

Q Do you know what he did with them? A I do not.

Q Did you have them in your possession at any time?

A No, sir.

Q Was that the last time you saw them? A I don't recollect seeing them after that. Brennan showed them to me and told me that that was the coat and the pipe that had been found at 54 Stanton Street.

Q Did you ever make any search for them? A I have since, yes.

Q Been able to find them? A No, sir.

BY THE COURT:

Q Is Brennan the officer that <sup>it</sup> has been testified is dead? A Yes, sir.

Q He died about a year ago, didn't he? A About 6 months.

J O S E P H O. S K I N N E R , (Deputy Assistant District Attorney), called as a witness in behalf of the people, being first duly sworn, testifies as follows:

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## DIRECT EXAMINATION BY MR. EDWARDS:

Q You are a Deputy Assistant District Attorney, are you not? A I am.

Q And you were in the month of October, 1913 assigned to the Homicide Bureau of the District Attorney's office, were you not? A I was.

Q Do you recollect taking a statement of this defendant at the 31st Precinct Station House on October 25th, 1913? A I do.

Q Who was present at the time that you saw him there?

A Inspector Chalane was there, the stenographer was there (Mr. Hamill) -- James Hamill, official stenographer of the Homicide Bureau; Detective Fogarty was there and Detective Di Martini and Captain Jones.

Q About what hour was it, if you recollect? A I think it was somewhere between 11 and 12 o'clock at night.

Q Do you recollect what you said to the defendant and what he said to you in the course of that statement? A I have taken a great many statements before and since that time, I don't know to how great detail I can go. I remember some of the facts.

Q Did the stenographer take down a statement that night?

A Took down everything that was said.

Q Did he get out a transcript of that statement afterwards for you? A He did.

Q Did you read it over afterwards? A I did.

Q Was it an accurate statement of the conversation as it was held between you and the defendant? A It was.

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MR. BRANDE: Objected to. How can Mr. Skinner say it was an accurate statement taken by some other man?

THE COURT: Well, he heard the questions and answers given, and then when his memory was refreshed by reading the paper over, he can testify the paper contained an accurate account of what transpired.

MR. BRANDE: Exception.

A I remember the main facts to the present time, but the details I cannot give.

Q Will you give us the best of your recollection as to just what was said by you and the defendant on that occasion?

The persons I have named were present and the defendant's story had been told to me previously. I then told the defendant that he had been arrested and was charged with being implicated in causing the death of Charlie Lem, a Chinaman, on the 18th of August. That I was an assistant District Attorney and a member of the Homicide Bureau, and that I wanted to take his statement if he wished to give it, but it was purely voluntary on his part -- he didn't have to say anything, if he didn't want to, and anything he might say would be used against him. It was the usual warning that I gave every defendant.

Q What did he say in reply to that warning? A As I remember, he said that he wanted to tell the whole story or tell the story.

Q And then did he proceed to make these statements? A He did.

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Q Can you tell us the substance of what he said? A I recollect that he referred to a Smitty and a Goldstein as being two young men who were with him, or with whom he was acting, and that they had planned to rob this Chinaman, and that they had gone there, and his part of the job was to stand outside and watch, and that Smitty and Goldstein went down into the laundry, and that, I think it was Goldstein, had a coat over his arm and that he had a piece of pipe under the coat; and that he stood there for a short period of time, I don't recollect whether he designated the number of seconds, or half a minute or what it was, and then he went down and at that time he saw the Chinaman all bloody, or in a pool of blood lying on the floor.

Q Then what did he do, did he say? A He left, that is about all I can recall. He ran away. In fact they all ran away, I think he said.

Q And this statement was taken on the 25th of October, 1913?

A It was.

Q I show you a paper consisting of twelve pages, and ask you if that is a transcript of the stenographer's notes which you read over after the statement was taken? A It is.

Q And the one concerning which you have testified that it contained an accurate report? A Yes, it is.

MR. EDWARDS: I ask that that be marked for identification.

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(Marked for identification People's Exhibit 1.)

CROSS EXAMINATION BY MR. BRANDE:

Q You are familiar with this case thoroughly, are you not?

A I am not.

Q Well, what I want to get before the jury is this one fact: did this defendant any time before today have a hearing in a public court since his arrest, if you know? A I don't know.

Q Who has had charge of this case in preparation, do you know?

A I don't know. He was arrested on that date and I was on duty and according to the custom of the Homicide Bureau, they sent for me.

Q There is no record in your office, so far as you know, that this defendant ever had a hearing before this court outside of to-day? A I can't answer that question.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q In the Homicide Bureau one man is always on the telephone night and day? A There are three in the Bureau and each one takes a week, and he takes all the cases that occur during that week, night and day; and this defendant was caught during the time, the week I was on duty, and I was called by Mr. Hamill to go to the station house.

Q And this one statement was all the connection you ever had with the case? A That's all.

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## RE-CROSS EXAMINATION BY MR. BRANDE:

Q When the defendant was in the 67th street station house how many officers surrounded him? A Well, I don't know what you mean by the word "surrounded".

Q How many were in the room -- like we are here, for instance?

A At the time the statement was taken the stenographer was sitting at a desk; if I recollect correctly I was standing up outside the desk, and the defendant was opposite me. It was a roll top desk, if I recollect and the defendant was opposite me, and Inspector Chalane was sitting on a table there somewhere, and Detective Fogarty and Detective DiMartini and Captain Jones were sitting around making themselves comfortable. That is all I recollect.

Q And no one made any attempt to send out for any assistance for this defendant at that time? A We don't generally do it, when I start to take a statement.

Q All the officers were sitting around comfortably, you say?

A That is my recollection.

Q They were paying attention to what you were saying? A Why, they certainly were; that is their duty, that is what I had them there for.

J A M E S   H A M I L L (115 Broadway, called as a witness in behalf of the People, being first duly sworn, testifies as follows:

## DIRECT EXAMINATION BY MR. EDWARDS:

Q What is your business? A Stenographer.

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Q How long have you been a stenographer? A About twenty-one years.

Q During a part of that time you were connected with the District Attorney's office? A Yes, sir.

Q For how long were you the official stenographer of the Homicide Bureau of that office? A Eight years.

Q And you were such on the 25th of October, 1913? A I was.

Q Did you on that date go to the 31st Precinct station house, and there with Mr. Skinner and others, take a statement from this defendant? A I did.

Q Did you take that statement down stenographically? A I did.

Q Did you afterwards transcribe it? A I did.

Q Have you got your original notes with you? A No, sir.

Q I show you People's Exhibit 1 for identification and ask you if that is a correct transcript of the notes that you took at that time? A Yes, sir.

Q That was transcribed by you from the notes? A Yes, sir, and delivered to Mr. Skinner.

Q And it contains a correct transcript of everything that occurred at that time, during the taking of the statement?

A Yes, sir

Q Can you recollect at this time exactly what was said at that time in the way of question and answer? A No, not verbatim. I have a general recollection of the conversation.

Q Can you refresh your recollection from this transcript

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that you have identified, People's Exhibit 1 for identification,  
and state what was said verbatim? A Yes, sir.

MR. EDWARDS: I ask that the witness be permitted to  
do that.

THE COURT: Is there any objection to the transcript?

MR. BRANDE: I object to that, may it please the Court,  
upon the ground it is incompetent and not the proper way  
of proving conversations.

THE COURT: He cannot under guise of refreshing  
his recollection, read off the transcript verbatim. he  
can read the transcript to refresh his recollection;  
first he can give his testimony, and then in any place  
where his recollection fails he can refresh it from the  
transcript.

Q All right, will you do that, Mr. Hamill? A Yes.

Mr. Skinner said to the defendant, "Achille", he said, "Achille  
I am an assistant District Attorney attached to the Homicide  
Bureau and am now investigating the death of a Chinaman named  
Charlie Lem, who was killed some time in August, 1910." He  
said, "You have been arrested, charged with being implicated in  
the killing of that Chinaman. I am going to ask you some  
questions. Anything you say to me will be used against you, and  
anything you say must be said voluntarily. Do you wish to tell  
me how this happened?" The defendant said, "I will tell you  
briefly the whole story." Mr. Skinner said "All right."

Then in answer to questions put by Mr. Skinner, the defendant

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said that he had met a fellow named Smitty and a fellow named Goldstein while he was in company with a fourth youngman whose name he did not remember, on Eldridge street that morning about nine o'clock. He said it had been arranged either by Smitty or by Goldstein to go down and rob this Chinaman in Stanton street; he said he knew nothing about it until he met up with them that morning, and that they asked him to go along and participate in this robbery. He said both of them -- one of them had their coat off, and the other fellow had something, a stick or something, under his coat. That they proceeded to the Chinaman's store in Stanton street and Smitty and Goldstein going down the stairs in the basement where the Chinaman was, and he and a little fellow remaining up on the sidewalk to watchout. He said he stood there about three minutes or five minutes, he didn't recollect which, and finally he himself went down into the basement. There he saw the Chinaman, as he said, all "Blooded up." He didn't see Goldstein, although he said he was in there some place, and Smitty was rummaging around. He said, "I got scared and ran upstairs and ran away; and that is all I know about it."

BY MR. BRANDT:

Q He said he didn't know anything about what was going to take place?

MR. EDWARDS: One moment, if the Court pleases?

MR. BRANDT: I beg your pardon, Mr. Edwards.

BY MR. EDWARDS:

Q Now that you recollect of what he said? A Well,

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Q Well, subsequent to that he was asked questions with reference to this smitty and Goldstein, and he said he knew that Smitty had participated in a similar case about two months before this, and Mr. Skinner asked him what he meant by a similar case and he said he killed a Chinaman about two months before. Mr. Skinner asked him if he knew what was going to happen to the Chinaman when they went down there this particular morning, and he said no, he didn't know they were going to kill the fellow or hurt him, but he knew they were going to rob him.

Q Was there anything more that you recollect? A Except that he said he had seen one of them sometime after that. That he himself had remained in the City had not run away out of town, and he had seen either Smitty or Goldstein since the occurrence. I forget which one he said he had seen.

Q You have exhausted your recollection now, have you? A Yes, sir.

Q Was anything said about his making a confession at some prior time? A Yes, he said he had thought of doing that, but I believe he said that he was afraid to do it. I don't remember the reason he gave for not having done so.

CROSS EXAMINATION BY MR. BRANDE:

Q Did he appear to be frightened at the time? A No, not particularly frightened.

Q You are acquainted with the surroundings of a station house, are you not? A Yes.

And you know that a strange individual is somewhat

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frightened when they get into those surroundings -- bars, and  
the other police officers around? A They may. I don't know  
it. I assume it would be a natural thing for them.

Q If a stranger goes in there it is not one of us, like you  
or me, who is perhaps accustomed to see them every night? A No.

Q Did he tell you what he worked at? A Yes, he said he  
was a compositor. I think he said that; I am sure he did.

Q Did he tell you how much he was making a week? A I don't  
recollect that but he said he was working steady.

Q And no one was interested in the crowd there to ascertain  
the character of the boy at that time? A Mr. Skinner went into  
that, asked him where he was working, what he was working at;  
went into that detail.

Q Where did he say he was working? A I don't remember, but  
I think he did say, though.

RE-DIRECT EXAMINATION BY MR. EDWARDS.

Q Was anything said about his knowledge of the Chinaman's  
death? A I don't remember.

Q Will you look at this please (People's Exhibit 1 for  
identification) and see whether or not your recollection is  
refreshed on that point? A Yes. Mr. Skinner asked him if  
he was not there to act as a lookout, and he said while they  
didn't tell him to stay there at all and act as a lookout in  
front of the store, he knew that they had him there for that  
particular thing, and that while he didn't know they went down

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there to kill him he knew they went there to rob him, and he was there as a lookout.

RE-CROSS EXAMINATION BY MR. BRANDE:

Q Who used the word "lookout" first, - Mr. Skinner? A I don't recollect that. It is there. (Indicating People's Exhibit 1 for identification.)

Q Well, then refresh your recollection, please (handing witness People's Exhibit 1 for identification). A Mr. Skinner used it, used the word "lookout".

Q Mr. Skinner used for the first time the word "lookout"?

A Yes.

MR. EDWARDS: People rest.

MR. BRANDE: May it please the Court I move to strike from the record that which has been introduced in this case as an alleged confession of the defendant, upon the ground that that is not in the nature of a confession, in the first place; and, second, if it were it was illegally obtained -- mostly under duress.

Motion denied. Exception.

MR. BRANDE: I ask your Honor to direct the jury to acquit the defendant upon the ground that the People have utterly failed to make out a case.

Motion denied. Exception.

MR. BRANDE: I ask your Honor to direct the jury to acquit the defendant on the ground that there is no corroboration whatsoever in this case of the witness Lehman,

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who admitted upon the witness stand that he participated in the killing of the deceased mentioned in this case.

Motion denied. Exception.

MR. BRANDE: I move your Honor to direct the jury to acquit upon the ground that there is no corroboration whatsoever of the alleged confession of the defendant.

Motion denied. Exception.

MR. OIMSTEAD: Does your Honor hold that the alleged confession corroborates the accomplice,?

THE COURT: I do not hold so, the Court of Appeals has held so.

MR. OIMSTEAD: Neither of them having any independent probative value?

THE COURT: The Court of Appeals has held in several cases that a confession is evidence tending to connect the defendant with the crime, sufficient to corroborate an accomplice. They have held that on that direct point several times.

MR. OIMSTEAD: Exception.

OPENING ADDRESS OF MR. BRANDE TO THE JURY IN BEHALF OF  
THE DEFENDANT.

MR. BRANDE: May it please the Court, Mr. Foreman, and Gentlemen of the jury: The defendant, Achille, is a boy about nineteen years of age. The boy is going to take the stand and tell you how he comes to be here before you twelve men.

The People have put in their evidence, and we have got to refute that evidence. I take it that you understand that upon the evidence produced here the assistant district attorney, my distinguished friend, Mr. Edwards, is going to ask you for your verdict to electrocute this boy on that evidence.

The boy will take the stand, as I said before; he will tell you that he lived in this neighborhood. He will tell you that on this day he met these two murderers, these two criminals, whose reputation and records he knew nothing of. At that time he will tell you he was only scarcely out of his sixteenth year; that he was employed; he will tell you where he was employed; he will tell you that he was still employed there then, and we have here the employers that he has been with all the time.

He will tell you that these two boys whom he had seen in the neighborhood, these two criminals I mean, asked him to take a walk down the block, and that he did, and that's the first thing he knew that something had happened.

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A boy, sixteen years of age, frightened -- just like a <sup>135</sup> child doing something at home keeps a thing, afraid it is going to get a licking, said nothing, thought nothing of it, continued his work, went to work and was working when he was arrested years afterwards.

He will tell you from the time he was arrested by the officers that he was taken from one station house to another, Police Headquarters, in handcuffs, threatened here, threatened there -- the electric chair in front of his eyes, as they put it to him. Statements, confessions, stenographer's minutes! Now, you can picture, when he tells you that on the stand, what mood that boy was in.

And you heard about the lookout. The boy will tell you he didn't know what lookout means. The boy will tell you that. He is his only witness, outside of the reputable citizens who are going to come here and tell you what a good boy he has been. The evidence, I take it that I don't have to holler to you about it, you heard it -- statements here and statements there. Now, that is the evidence that Mr. Edwards is going to ask you to take that boy's life upon.

Your Honor, I will call the character witnesses first, because I want to let them go, if your Honor will permit.

J O H N E. S A L I S B U R Y, called as a witness in behalf of the defendant, being first duly sworn, testifies as follows:

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## DIRECT EXAMINATION BY MR. BRANDE:

Q What is your address? A 564 44th street, Brooklyn.

Q Your occupation is what? A Superintendent of the Knapp Company.

Q What kind of a concern is that? A Calendar manufacturing and advertising.

Q Where is the place? A Brooklyn.

Q What street? A 34th street and Third avenue.

Q Brooklyn? A Yes, sir.

Q Do you know the defendant Achille? A Yes, sir.

Q How long have you known him? A For three years.

Q Is he employed by your concern? A Yes, sir.

Q And employed for that length of time? A Yes, sir.

Q What is his occupation there? A Composer. He was an apprentice learning to be a compositor.

Q What is his salary, if you know? A At the time he left \$16.

Q \$16 a week? A Yes, sir.

Q You know other people that know this boy, do you not?  
A Yes, sir.

Q What is his general reputation for peace and quiet and truthfulness and veracity among the people that know him? A Very fine.

Q Is this a very big concern of yours? A Yes, sir.

Q How many employees do you have there? A We have several branches. This branch employs, varies about 200, I think, at

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the time he left. A little over that, maybe.

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Q And you have had this boy under observation for three years?

A Yes, sir, I took a great interest in him from the time he started in for us. He worked for us at the branch of the concern I am with. When we first started in business we started in our new place, and Mr. Achille at that time was an apprentice up in that composing room, and we had a small place to start with on the same floor, and I took a great interest in him at that time, and we were going to move to Brooklyn, as soon as our plant was ready, and when it was I took him with us. He worked with us for about three years.

Q He was such a good boy you took him also with you all the time? A I did. He started at \$6 and worked himself up to \$16, and he was about due for an increase of \$2 when he left.

**CROSS EXAMINATION BY MR. EDWARDS:**

Q When did you first become acquainted with him? A I think it was about November, 1910, or December 1910.

Q So that in August, 1912, you had known him for about a little less than two years? A Well, about three years, yes.

Q From November 1910, to August 1912? A I have the card here from the time he started to work for us. This card is the record from the starting of the time.

Q Just give us the time and tell us when he came to work for you, when you first met him? A We started to work in Brooklyn about March 14th, 1911.

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Q When did the defendant come to you to work? A I am not positive of the time; it was either November or December, 1910.

Q Then in August 1912, you had known him for less than two years at that time? A Yes, less than two years.

Q What did he do for you? A He was a compositor's apprentice.

Q Have you ever known him outside of your business? A Not outside of business.

Q You have never known him except as a workman under you?  
A No.

Q Is he directly under you yourself? A Part of the time he was.

Q What part of the time? A Before I was superintendent for him, I was foreman of the composing room, and under the superintendent at that time, which occupied a great deal of my time on the composing room end.

Q When was that? A That was from the time that he started to work for us, up till, I think, a year and a half after that.

Q And then he worked directly under you? A Yes, sir.

Q But outside of what you saw of him in the workroom you don't know anything about him, do you? A No, sir.

Q You didn't know what his habits were in the evening or at night or on Sundays? A No, sir.

Q You didn't work your force on Sundays? A No, sir.

Q What age did he give when he came to work for you? A That

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I couldn't say.

Q Haven't you got that on your record card, to show how old your apprentice was that you took in there? A No, sir.

Q Didn't you have any rules in the ordinary course of business to determine whether a boy who came there as an apprentice was of sufficient age to work? A Well, we do, yes.

Q Didn't you make any inquiry as to this boy's age when he came there? A I don't recollect whether I did or not, at that time.

Q Didn't you keep any record of that boy? You have there in your hand a charge showing his employment, haven't you? A Yes.

Q His record with you? A Yes.

Q Well, does that show how old he was when he came to you?

A No, this card does not.

Q Do you know how old he was? A No, I do not.

Q Do you recollect what he told you about his age? A No, sir, I do not.

Q Do you know how old he is now? A No.

Q What other people do you know who know him? A The foreman that was underme at the time he left there, and all the people in the plant that knew him at that time while he was working there.

Q Never had any occasion while he was working there to discuss his character with any of them, did you? A Not to my knowledge.

Q When did he leave? A I think it was around October last

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Q About the time of his arrest? A Yes.

Q You don't know any one who lives in the same neighborhood with him here in New York, do you? A I know one boy; he worked for me.

Q Just some one else who worked for you? A Yes.

Q You don't know any one else who worked over here on the East Side before he went to work for you? A No.

Q Don't know any member of his family? A No.

Q Don't know who his friends are outside of working hours?

A No, sir.

RE-DIRECT EXAMINATION BY MR. BRANDE:

Q You know one of the boys who worked for you, who lived near him? A Yes.

Q The boy did leave? A Yes.

Q There was no trouble before his arrest, was there? A No.

Q You heard he was arrested and you were surprised? A Yes, sir.

Q And you volunteered to come over? A Yes, sir.

Q Are there any other gentlemen with you here? A The foreman, Mr. Weigel.

LOUIS WEIGEL, called as a witness in behalf of the defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BRANDE:

Q What is your address? A 300 Madison street, Brooklyn.

Q Your occupation is what? A Compositor.

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Q Where do you work? A Knapp Company.

Q Do you know Mr. Salisbury? A Yes, sir.

Q Do you know the defendant Achille? A Yes, sir.

Q Do you know other people that know the boy Achille? A Yes, sir.

Q You are the foreman there, I understand? A Yes, sir.

Q Did Achille ever work under you? A No, sir; he worked under me when I was assistant foreman.

Q You said before you knew other people that knew this defendant? A The people that worked down there also.

Q Do you know what his reputation is for truth and quietness and truthfulness and veracity? Is it good or bad? A Well, in his habits down there we always found him good.

CROSS EXAMINATION BY MR. EDWARDS:

Q You never had occasion to talk about what his reputation was over here in Manhattan among the people among whom he lived or among anybody, did you? A No, sir.

Q You only knew him during working hours in the shop? A That's all.

Q You don't know anything among his friends and acquaintances outside of the shop? A No.

Q You didn't work him Sundays? A No.

Q You don't know how he spent his Sundays or evenings or any other days? A No, sir.

Q He worked regularly? A Yes, sir.

Q Did he use a gun? A Not to my knowledge.

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Q How long did you have him directly under you? A From March 1913, until september 1913.

Q Before March 13th you did not know him at all? A Yes, I worked with him from June 1912, but he was not under me until march, and then I was assistant foreman.

Q You worked with him --- what do you mean? A Worked with him in the same department, shoulder to shoulder, as it were.

Q But you only knew him during working hours? A That's all.

Q Did he ever tell you how old he was? A No, sir.

Q You never knew how old he was at all? A Well, only ---

Q Except from what you can guess? A Except from what I can guess.

F R A N C E S C O A C H I L L E, called as a witness in behalf of defendant, being first duly sworn, testifies as follows:  
(Through Official Interpreter DeVille:)

DIRECT EXAMINATION BY MR. BRANDE:

Q Where do you live? A 128 Houston street, New York.

Q You are the father of the boy, the defendant? A Yes.

Q How many more children have you got? A Seven.

Q And are they all living home? A Sure.

Q Where was the defendant, your son here, born? A New York.

Q Do you know where he was born, what street? A Eli zabeth street.

Q And you know that the record of his birth is filed with the Board of Health, do you not? A Certainly it is there.

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Q And do you remember the year he was born in? A 1905,<sup>143</sup> the 5th of April.

Q What year? A 19 years ago, 1895.

Q Is your boy always coming home nights when he would leave work? A Every day, and he religiously brought his pay to me on pay day. He is my best boy and has always been very good and attentive to his work.

Q There has something been said here about "alias Coco", will you explain to these twelve men what Coco means when they call your boy that? A Well, in Sicilian dialect Nicholas is transformed into the diminutive term, into the name of Coco, and we called him Coco, because it is a familiar nickname used among our people.

Q That is to say, it is a short form of Nicola, which would mean Nicholas? A The same thing as Nicholas.

Q And Nicholas is his first name, baptismal name? A Nicola, yes.

CROSS EXAMINATION BY MR. EDWARDS:

Q What was the mother's name, the boy's mother's name?

A Giovanna Achille; Her maiden name was Giovanna Zitto.

Q Do you recollect the number on Elizabeth street where the defendant was born? A Yes, sir.

Q What was the number? A 227.

Q You say the defendant always came home every evening?

A Every evening.

Q You do not mean he spent all his evenings at home, do you?

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A He would come home and have his meals and would go out probably until nine, half past nine and come back and go to bed.

Q Always was back at nine or half past, was he? A Five or ten minutes, more or less. He always came home.

Q Wasn't he very often out going to Prize fights? A If he did that, I don't know anything about it.

Q Well, don't you know that he was fond of going to prize fights? A I don't know. He may have gone there once or twice; I don't know.

Q Did you ever hear him talking about it? A I never discussed with him fights; I always talked about business and work.

Q Did you know Battling Smith? A No.

Q Did you know Lehman? A No.

Q Did you know any of his friends there in the neighborhood?

A I don't know who his friends are. The boys look for Goco, I have seen boys with him, but I don't know who they are.

Q You don't know anything about the kind of boys he had for friends, do you? A Well, working boys, that is all I know about them.

Q Well, you don't know what they do for a living, do you?

A One worked in Brooklyn. He used to go out with my son.

Q Well, I ask you if you know any of your son's friends in that neighborhood where he lived; do you? A Near my home I don't know of any friends of his living in that neighborhood.

Q Boy would go to work in the morning, and come back in the

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evening.

Q Did you know Louis Goldstein? A Who is that? I don't know him.

Q Never heard of him? A No, sir.

Q Did you ever hear of Paul De Antonio? A No.

Q They called him, sometimes, I believe, the Little Wop; did you ever hear him called that? A No.

Q Do you know a friend of his called Joe the Wop? A I heard of Joe Wop, that he was employed or connected with some moving picture show in the neighborhood.

Q Do you know Red Circus? A No.

Q Do you know "Married Man"? A No, sir.

Q Do you know "Little Yettie"? A No.

MR. BRANDE: I want at this time to object to such kind of cross examination, because it is simply suggestive of something that is not in existence and prejudicial with the jury.

THE COURT: He is asking if he knows a certain number of people.

MR. BRANDE: He might just as well ask him if he knows Theodore Roosevelt.

MR. EDWARDS: He might have known him. He didn't hear about these.

BY MR. BRANDE:

Q Do you know Mr. Edwards? A No.

BY MR. EDWARDS:

Q You are certain your boy never stayed out late at night.

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at all? A No, from the day he was born, no.

Q Where did he work, do you know? A In Brooklyn.

Q Whereabouts in Brooklyn? A 34th street, but I never went there, I don't know the neighborhood there.

Q What was the name of the people he worked for? A With a concern, a company, but I don't know the name of the company.

Q What was their line of business? A A compositor.

Q How long was he with that same concern, do you know? A It must be more than three years, not less.

THE COURT: Gentlemen, do not form or express any opinion as to the guilt or innocence of the defendant, until the case is finally submitted to you. We will take an adjournment until 2 o'clock.

(Recess until 2 P. M.)

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## A F T E R   R E C E S S .

(Trial resumed.)

L O U I S   G O L D S T E I N , called as a witness in behalf of the defendants, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BRANDE:

Q   Mr. Goldstein, how old are you? A   24.

Q   Where are you now confined? A   Sing Sing Prison.

Q   When were you brought down to New York?   Do you remember when you were brought down from Sing Sing -- this morning or last night? A   This morning.

Q   Have you ever seen me before this morning, in your life?

A   No, sir.

Q   Have you ever spoken to me? A   No, sir.

Q   When were you arrested in connection with this particular case of this Chinaman? A   The 17th of May, 1913.

Q   May 17th, 1913? A   1913.

Q   Do you remember the name of the officer who arrested you? A   John Beadle, from West 17th Street Precinct.

Q   Do you remember after your arrest where you were taken to? A   Spring Street station.

Q   Where? A   After my arrest?

Q   Yes. A   Right in the Tombs.

Q   The District Attorney's office? A   No, sir, the Tombs.

Q   You were taken to the Tombs, you say? A   Yes, sir.

Q   You were arrested on the charge of homicide, were you

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not? That is, murder? A No, sir. I was arrested for taking packages off a wagon. I gave myself up on the charge of taking packages.

Q Will you come down to the time when you were arrested in connection with the homicide of the Chinaman? Never mind the past, just come down to this particular case. A They brought me down, I don't remember the day, from Dannemora about three months ago, and they indicted me on this homicide case and the Chinaman.

BY THE COURT:

Q That is, you were serving in Dannemora for some other crime when you were brought down and indicted for this?

A Yes, sir. I gave myself up on both charges.

BY MR. BRANDE:

Q Then I understand you were serving a term in Dannemora prison? A Yes, sir.

Q And while serving that term the warrant was lodged against you in connection with this Chinaman's case, is that the idea? A Yes, sir.

Q You know this fellow Lehman, otherwise known as Smitty, I understand? A Yes, sir.

Q How long have you known him? A I know him quite a while. I don't know the exact date.

Q You have pleaded guilty to manslaughter in the Chinaman case, have you not? A Yes, sir.

Q And you are now under sentence of what? A Nine years.

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Q That was by Judge Swan? A By Judge Swan.

Q Will you please in your own way tell his Honor and these twelve gentlemen of the jury what occurred between you and anyone else that you know of in connection with the striking down of this Chinaman? A Well, I went down -- I was in the candy store over in Eldridge Street between Houston and Stanton, and Smitty came over to me and says, "Do you want to make some money?" I says, "Well, I want to make money," but I didn't think he was going down to the laundry for any crime of killing a Chinaman, but went down there. He took me around there and he said, "If you don't go in there, you know you broke your parole from Hart's Island;" he says "I will make you go down by telling Bliss, parole officer, where you hang out." Well, figuring I would sooner go down there-- but I thought a robbery charge, no murdering charge -- so I went down there with him and I went in the back for the money while Smitty was outside, in the store, rather, and I went in to the back room of the laundry, and he said to me, "You go in the back and look around for the money, and I promise you the Chinaman wouldn't go and follow you in there, because he is a good friend of mine," he says, "I will keep him talking here. I will keep talking to him while you go in there and look around and see if you can get any money."

When I was coming out of the back room I seen Lehman have the Chinaman by the throat and he had a piece of lead pipe over his head, and while I was coming out of the back room



I run over to him and I grabbed his arm, and I said, "Lehman", -- I said, "Smitty, don't do that." "Oh," he said, "I didn't hurt him;" and he let him go, and the way he let him go the Chinaman dropped back.

Well, we went out of the place. We didn't find the money there, and Smitty got some money out of the pocket or out of the drawer, I don't know which it was. When we went out he says to me -- I asked him, I said, "What did you do to him?" "Oh," he said, "I didn't even touch him," like that; and we walked out. About an hour afterwards some people went down, I suppose to get their laundry, and when they got their laundry I suppose they seen him -- when they went down for their laundry, I suppose they seen the Chinaman there all stretched out. Somebody rang up for an ambulance, or the policeman rang up for an ambulance, because I was around there but I didn't dare go near the place, and I didn't ask nobody about it because I was afraid suspicion would be thrown on me. So when I see Lehman again on the corner I asked him again, I had my coat off, -- I lent him my coat to put that piece of lead pipe in in the candy store. He didn't tell me he was going to put any lead pipe in, but he said, "Lend me a coat." I lent him a coat, and when we were coming out of there I said, "Did you kill him?" He said, "No."

Well, after that we found out, two hours after they got him in the hospital the Chinaman died. Well, we figured this -- no use doing anything; we might as well stay around, but Smitty

said he would not stay around. He said he has got a fellow he can get money off, he said he can force money out of him, and he has got to give it to him; if not, he will make him feel sorry.

And I don't know what happened afterwards until I gave myself up on both charges, on the Chinaman charge and on the bundle charge. They gave me for the bundle charge 2 to 3 years, and about 3 months ago they brought me down on this homicide charge and gave me 9 years on that. That is as far as I know.

The fellows on the outside I don't know nothing about it, because Smitty said he would station two fellows outside-- I don't know who he stationed outside, but I know one of the lame boys that was with us, the other fellow -- he said he would put another fellow there, but that is all he told me.

Q Now, Mr. Goldstein, I asked the question before -- you never told me that story till voluntarily on the stand now? A No, sir, I am telling the truth now.

Q You never spoke to me about it except that I saw you this morning? A Yes, sir.

Q Were you taken to the District Attorney's Homicide Bureau upstairs? A I asked to see the District Attorney, yes.

Q And did you see the District Attorney? A I seen the District Attorney.

Q And you told him the story? A Well, I made a con-

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fession that, when I got arrested on both charges.

Q You say you are now under sentence of 9 years in this particular case? A Yes, sir.

Q Now I ask you, before these gentlemen and His Honor, here is a boy, here, the defendant (indicating defendant); look at him well. Had he or was he in any way connected whatsoever with the commission -- A No, sir.

Q (Continuing)--of that horrible crime? A No, sir, he was not.

Q Did he at any time with you or with Smitty plan any such crime? A Well, not with me. I don't know about Smitty; not with me, though.

Q Now, then, it was Smitty who told you -- A To come down to the Chinaman, yes, sir.

Q When was the first time you ever saw this boy, the defendant? A There was a crippled boy down in the Tombs and he told me -- I don't know -- Paul Netile -- I don't know his name -- he is a little Italian boy -- he told me, he said, "You must know this Nick;" he says that --

BY THE COURT:

Q You were asked when did you first see this defendant?

A I seen him in the Tombs, over in Part I, I think it is, the first time I seen him.

BY MR. BRANDE:

Q In other words, you saw him after he was arrested?

A Yes, sir.

Q Had you seen him on the day of the commission of the

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crime at all? A No, sir.

Q Had you seen him at any time before? A No, sir.

Q So the only time you saw this boy was in the Tombs?

A Was in the Tombs.

Q And you say now under oath, although you are under a heavy sentence, that you do not know this boy at all, insofar as the commission of this crime is concerned? A No, sir, I don't know him.

Q Smitty said that you and Smitty and this boy (the defendant) pre-arranged this robbery. A No, sir, me and Smitty did, but I don't know nothing about him (indicating defendant.)

Q This boy was not down in that cellar and looked down there? A No, sir. It was me and Smitty that was down the cellar.

Q Smitty said that you struck the Chinaman about four blows on the head with this pipe and that he afterwards hit him the last blow with a billy? A No, sir. I have nothing to lose, but Smitty struck the blow. I had my 9 years, they can't give me no more on that charge, but Smitty honestly struck that blow, because I was in the back searching for money when Smitty struck them blows. I have nothing to lose. I have my sentence either way, and Smitty struck the blow that killed that Chinaman.

Q And this defendant had nothing to do with it whatsoever? A No, sir.

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Q When you made the request to speak to the District Attorney was it granted? A Yes, sir.

Q And you made the statement then and there? A I made my same statement I made when I was first arrested, when I gave myself up, rather.

Q And you told the District Attorney at that time that this defendant, you didn't know him at all? A I told the District Attorney that there was a fellow that come with us, but he was -- but this ain't the fellow, I know (indicating defendant.)

Q Was it the cripple? A Yes, sir. The cripple was with us, but he was not even down the basement himself, because me and Smithy were alone down that basement, because nobody else went down the basement but me and Smithy.

MR. EDWARDS: Counsel says he will consent to the offering in evidence of a certain certificate of the record of birth of the defendant which I have procured, without the formal proof.

(Received in evidence and marked People's Exhibit 2.)

CROSS EXAMINATION BY MR. EDWARDS:

Q You gave yourself up, did you not? A Yes, sir.

Q In May of what year? A 1913.

Q At that time you gave yourself up to Officer Beadle?

A Yes, sir.

Q And you gave yourself up on two different charges -- the

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killing of this Chinaman and then the charge of stealing bundles? A Yes, sir.

Q How long had you been a bundle thief? A Well, about two years.

Q And you were making good money at that line of work?

A Yes, sir.

Q How much? A Well, I made my \$12 some days. Some days less, some days more.

Q You averaged between \$10 and \$12 a day, didn't you?

A Yes, sir.

Q Where did you do most of your stealing? A Well, around 17th Street, 18th Street, 15th Street, 16th Street, and west side.

Q Was it all from express wagons? A Yes, sir.

Q That was your special line, wasn't it? A Yes, sir.

Q Stealing from express wagons? A Yes, sir.

Q How many times have you been convicted altogether?

A I was over in the New York Juvenile Asylum; my mother gave me away there.

Q What for? A She couldn't keep me in the house, because my father was not working.

Q I asked you for convictions, I don't care anything about that. What crimes have you been convicted of? A I was convicted from Hart's Island Reformatory, for taking six pair of pants.

Q When was that? A I don't remember the date.

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Q How old were you then? A Between 18 and 19.

Q How old are you now? A 24.

Q What was your next conviction? A Sing Sing Prison was my next.

Q Weren't you convicted and sent to Elmira? A No, sir.

Q You never have been in Elmira? A No, sir.

Q Then you were convicted and sent away? A On my own evidence.

Q For the package stealing? A Yes, sir.

Q Then you came back and pleaded guilty to this charge and you are sent away now on that? A 9 years.

Q How many statements did you make to the District Attorney altogether? A Two statements.

Q When was the first one made? A The first one when I gave myself up. There was one statement I made in 17th Street Precinct.

Q That was about when? A And the next one was this one here.

Q That was about when? A When I first -- I don't remember, it is around May 17th or 18th, 1913, when I first gave myself up.

Q May 17th or 18th? A Or 18th.

Q And it was on a Monday, wasn't it, May 19th? A No, it was on the 18th. I gave myself up on a Sunday night.

Q And you were examined the following morning? A The following morning.

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Q By the District Attorney? A Yes, sir.

Q You gave yourself up on the 18th of May and you were examined on the 19th? A Yes, sir.

Q Who was the District Attorney who took that statement?

A I don't remember.

Q Would you know his name if I told it to you? Was it Mr. Breckenridge? A No, I don't think I would remember it.

Q Do you remember what he said to you? A I don't remember what he said to me.

Q Do you remember his asking you questions? A He didn't ask me no questions.

Q None at all? A They just -- Judge Swan asked me when I was up for sentence.

Q No, I am talking about the first statement you made the day after you were arrested, to the District Attorney. A No, no, I made it down in the 17th Precinct.

Q But you made it to an Assistant District Attorney, didn't you? You came up there and the District Attorney told you you need not say anything unless you wanted to, but anything you did say would be used against you? A Yes, sir.

Q And you answered some questions for him -- a tall gentleman, rather slight? A There was a gentleman taking my pedigree, taking down.

Q And there was another gentleman like this (pointing to official stenographer) sitting there writing down everything you said? A Yes, sir.

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Q Do you remember what you said on that occasion? A No, sir.

Q Do you remember Mr. Breckenridge asking you this question, "Do you remember the date the Chinaman was killed at 54 Stanton Street?" And you said, "I remember the time."

A Yes, sir.

Q You said that? A Yes, sir.

Q And do you remember this question, "Were you there at the time?" A I was." A Yes, sir.

Q That was true? A Yes, sir.

Q Then do you remember this, "Who were you with?" A Me, Smithy and Coco?" Wasn't that your answer? A I don't remember that.

Q You don't remember that? A No, sir.

Q Will you say it was not your answer? A Well, I didn't mean to say Coco, I meant to say the crippled boy, the one that is crippled now in the Tombs.

BY THE COURT:

Q How long have you known the defendant? A The first time I knew the defendant was over in the pen, Part I.

Q When did you first hear the name Coco? A Well, there is a lot of fellows on the East Side that have got that name.

Q When you made a statement, this defendant had not been arrested, had he? A No, sir.

Q How did you come to use the word Coco? A Well, I might

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have used Coco.

Q Now, do you understand that you are under oath? A Yes.

Q And you understand that if you testify falsely here you can be indicted for perjury and be sent up again? A Yes, sir.

Q Well, I want you to tell the truth. How did you hear that name Coco? A There is three or four Cocos on the East Side.

Q Which one did you mean when you said Coco? A Smithy said that other fellow's name was Coco. He said the other fellow that went down with us, his name was Coco. So I asked Smithy how big was this fellow, and he said, "Oh, a little bigger than me."

BY MR. EDWARDS:

Q What name do you know this defendant by? A I know him by Nick.

Q You never heard him called anything else? A No, sir.

Q Never in your life? A No, sir.

Q Who was the Coco in your mind when you said to the District Attorney that this was the Coco? A Well, the Coco that Smithy told me -- he said it was a big fellow, a little bigger than him.

Q Did you know that Coco? A Yes.

Q Where does he live? A I don't know where he lives. I know where he hangs out.

Q Didn't you just tell Mr. Brande you and Smithy were the only ones in the basement? A Yes, we were in that basement,

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but Smithy said he had two fellows watching outside.

Q Didn't anyone else come down in that basement while Smithy and you were there? A No, sir.

Q Not a soul? A No, sir.

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

Q Do you remember when you made your second statement to the District Attorney's office, or your sending a letter over here from the Tombs? A Yes, sir.

Q And asked if you could see and have an interview on a matter of importance in your case? A Yes, sir.

Q Do you remember who you saw then? A Yes, sir, I seen the District Attorney -- I don't know his name.

Q You saw the same gentleman who had taken your first statement, Mr. Breckenridge, again? A Yes, but he was a little stouter.

Q Well, he was the same man who took your first statement?

A Yes, he might have been the same.

Q And a stenographer was there who took down all you said at that time? A Yes.

Q And this was when you came over by your own request?

A Yes.

Q Do you remember Mr. Breckenridge asking you questions then? A Yes, sir.

Q And your giving him answers? A Yes, sir.

Q Do you remember his saying to you this, "Well, I don't"--

MR. BRANDE: I object to it now at this time, on the

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ground that it is hearsay, incompetent, irrelevant and immaterial.

THE COURT: On what ground do you claim it is incompetent, immaterial and irrelevant?

MR. BRANDE: On hearsay.

THE COURT: He is asking if he did not make a statement to the District Attorney.

MR. BRANDE: I did not go into the statement.

Objection overruled. Exception.

Q Do you remember at that time Mr. Breckenridge asking you this question: "Well, I don't want you to feel that you have got to say anything at all" -- A Yes, sir.

Q (Continuing reading) "because you know anything you may say can be used against you," and you answered, "No, I don't mind, and I told the same thing in my confession; before anything happened I made my confession about it." That was the question and you answered it that way? A Yes, sir.

Q And then do you remember this question, about immediately following, "Well, go ahead; I will hear anything you want to say;" and you answered, "Well, Smithy and Coco done jobs before that, the same kind of tricks; I know it for a fact." Did you say that? A Yes.

Q Now, do you recollect this question shortly after that, after you had gone on and told your part of this transaction: "By Mr. Breckenridge: Q When did Coco go into the place?" He is referring to the place where the Chinaman was killed.

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A Yes.

Q "Q Did he go in with you and Smitty, or after?" And your answer was, "No, it was after. We were just about onto going out, Coco made a run down and said, 'Did you get the money? Did you get the money?' he hollered, and Smitty says, 'No, we didn't get no money;' and he ran back again upstairs. First off he was going to leave me upstairs, and he said, 'I think you will beat it if I leave you up there; you had better come down with me.'" Did you say that? A I don't remember saying that.

Q Will you say you did not say it? A Well, I can't swear I did say that.

Q This is the second statement you made after you came over here in answer to your letter? A Yes, sir.

Q This is only last April, April 20th? A Yes, sir.

Q Can't you remember what you said then? A I don't remember that I said he come down after in the basement; I remember Smitty saying, "Come on, we will beat it out of here;" but I don't remember saying that.

Q Didn't you say Coco came down after you and Smitty were there and he hollered out, "Did you get the money, did you get the money?" And Smitty said, "No, we didn't get any money," and he ran back again upstairs? Didn't you say that? A I might have said it.

Q Well, did you say it? A I don't remember it.

Q You can't say whether you said it or not last April?

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A I might have said it, but I don't remember if I did or not. I might have said it.

Q Where did you meet Smitty on the morning of this day you killed the Chinaman? A I met him over in Eldridge Street, between Stanton and Houston, in the candy store.

Q Who was with him? A No one.

Q He was all alone? A All alone he was.

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

Q No question of that in your mind that he was all alone?

A Well, he told me --

Q Was he all alone when you saw him? A Yes, sir.

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

Q What time of day was it? A Well, it was about half past eight or a quarter to nine, around there.

Q Do you remember this question being put to you by Mr. Breckenridge and your giving this answer, at the time when you made your first statement on May 19th, 1913, "Where did you meet up with them that day? A I met them at Houston and Eldridge Street"? A Yes, sir.

Q Who was "them"? A The little Italian fellow, the lame boy; and Smitty.

Q He was the one, was he? A Yes, sir.

Q Did you call him Coco? A No, sir.

Q Never knew him to be called Coco? A No, sir, not that fellow.

Q You had known him around that neighborhood a long while,

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hadn't you? A Well, I don't know him a very long while.

Q Well, for some months you had seen him around that neighborhood? A Well, a couple of weeks.

Q You knew him by sight? A Yes.

Q You never knew him to be called Coco, did you? A He might have been called --

Q Did you ever hear him called Coco? A No, sir.

Q Do you remember this question being asked and your answering, "Did you have any talk with him about what you were going to do? A He asked me did I want to make some easy money. He said, 'You don't have to do anything; I will go down and do all that is necessary.'" A Yes, sir.

Q That happened? A Yes, sir.

Q And that is what you told Mr. Breckenridge? A Yes, sir.

Q "Where did you have that conversation? A At Houston and Eldridge Street." That was right too, wasn't it? A Yes, sir.

Q "Q What time was that? A That was about half past eight." Do you remember that? A Yes, around that.

Q "Q What did you do after that talk? Was Coco there at that time? A Yes, I met -- they met me, both of them together. I guess they had their minds all made up about it. I was not supposed to know anything at all that was going to be done down there." Did you say that? A I don't remember saying that I seen Coco there, but I know that my mind was not made up to do anything like that.

Q Well, did you say what I just read to you? A No, sir.

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THE COURT: Read it again.

Q "Q What did you do after that talk? Was Coco there at that time? A Yes, I met -- they met me, both of them together. I guess they had their minds all made up about it. I was not supposed to know anything at all that was going to be done down there." A Well, that is supposed to be Paul.

Q So you called him Coco all the way through? A I might have called him Coco all the way through.

BY THE COURT:

Q Was there anybody there with Lehman? A Yes.

Q You said a minute ago that Lehman was alone; now, which is true? A Well, he was there, but Lehman left me all alone. Lehman left me there in the candy store.

Q You said a minute ago Lehman was alone; now you say somebody else was with him. A Well, when we went over that Lehman was with him.

(The stenographer reads the following questions and answers at the request of the court.)

THE STENOGRAPHER (Reading.)

"Q Where did you meet Smitty on the morning of this day you killed the Chinaman? A I met him over in Eldridge Street, between Stanton and Houston, in the candy store.

"Q Who was with him? A No one.

"Q He was all alone? A All alone he was."

Q Is that true? A In the candy store he was all alone.

Q You say that you said to Mr. Breckenridge that Coco was

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there. Now which is the truth? A Well, I told him he was on the corner of Houston. This was not Houston. This was the middle of the block, in the candy store, that I met Lehman all alone.

THE COURT: Go on.

BY MR. EDWARDS:

Q You say you have never known this defendant Coco at all?

A No, sir.

Q You say you have never known him at all? A No, sir.

Q Never have seen him before in your life? A No, sir. I seen him here.

Q Never till you saw him here? A Yes, sir.

Q Do you remember Mr. Breckenridge asking you this question, "Where did Coco hang out? A Eldridge and Houston, near the moving picture place." A Yes, sir, I told him that.

Q That was Coco's hangout, wasn't it? A Yes, sir.

Q You knew that? A Yes, sir.

Q "How long ago did you see him? A I didn't see him for a long time now, for about a month anyway.

"Q You did not talk to him? A I got sent over from a girl that knew him, she sent me over with a note, to deliver the note, and some fellow told me that he was arrested.

"Q What girl is that? A Some girl he knows. She asked me, 'Will you do me a favor? Go over and see if Coco is on the corner. Tell him I want to see him.'" Did you say that?

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A Yes, sir.

Q Is that a fact? A That is a fact, but that ain't the defendant.

Q Who is this Coco? A The fellow hangs out at Stanton Street, Eldridge -- he hangs out four or five different places.

Q Where does he live? A I don't know where he lives. I met him on the corner a lot of times.

Q Was that Coco in this case of murdering the Chinaman with you? A Not this boy here.

Q Was the boy you are speaking of? A Yes, that boy was.

Q You said you didn't see Coco. A Well, Lehman told me.

Q You didn't see him that day at all? A No, sir, not the day we went down there.

BY THE COURT:

Q You have just said you saw him in the candy store.

A I said I seen him in the candy store.

Q You said Coco was with you, that is what you told Mr. Breckenridge. A I said the little lame Paul.

Q You said Coco there. Now, did you see Coco before this or not? A Before this crime? I seen him before this crime.

Q That day? A No, sir.

Q Did you say a minute ago that what you said to Mr. Breckenridge was correct -- that you did see Coco that morning?

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A I seen Coco?

Q What is Coco's name? A I don't know. They call him Coco.

BY MR. EDWARDS:

Q Where does he live? A I don't know where he lives. We don't know where a fellow lives around the East Side. We only know where they hang out places. We know where to meet them, that is about all. We don't know where he lives.

Q When you came and had your second interview with Mr. Breckenridge on the 20th day of April, that is less than two months ago, you went all over this again, didn't you?

A Yes, sir.

Q And told him all that you knew about it? A I told him everything I knew about it; I told him the truth about it.

Q And at that time you knew you had been indicted, didn't you? That was after you had been indicted for this crime, wasn't it? A Yes, I knew I was indicted.

Q That was before you pleaded guilty? A Yes, sir.

Q And you knew who else was indicted on this same indictment? A I knew Lehman was indicted.

Q You knew Lehman, Paul and Achille, this defendant, were indicted? A No, sir, I didn't know.

Q You were over in the Tombs with him, weren't you?

A We are not on the same tier as they are.

Q Weren't you brought over here on the same day with him to plead to a new indictment, all for review? A Yes, sir,

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that is the first time I met him.

Q You and Lehman and this defendant Coco and Paul were all brought over here to plead together? A Yes, sir.

Q When was that? A That was the day, I think, after I came down from Dannemora.

Q That was on April 20th, 1914, wasn't it? A Yes, sir.

Q The very same day after you pleaded you came over and you talked to Mr. Breckenridge? A (No answer.)

BY THE COURT:

Q Did you tell Mr. Breckenridge that one of the men who had just pleaded with you was not the right man? A No, sir.

Q You never said a word about that to him? A No, sir.

Q Why didn't you? A I didn't think he was on this case.

Q Weren't you all lined up together in front of the bar in Part I to plead? A No, sir.

Q Did you tell Mr. Breckenridge that they had the wrong man there? A No, sir.

Q Why didn't you? A It went out of my mind.

BY MR. EDWARDS:

Q You didn't think of it then? A No, sir.

Q You came over that same day and made a statement to Mr. Breckenridge at 11:45 in the morning. Do you remember Mr. Breckenridge asking you this question and your giving this answer: "Well, go ahead, I will hear anything you want to say. A Well, Smitty and Coco done jobs before that, the same kind of tricks, I know it for a fact"? A Yes, sir.

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Q Did you tell him then that Coco was not under indictment here? A It went out of my mind.

Q Did you tell him it was a different man you saw lined up there, pleading with you? A No, sir.

Q Did you have anything in your pocket or in your coat or in your hand when you went down into the Chinaman's place? A Yes, sir, I had a billy here in my pocket.

Q Where did you carry it? A Right here in my pocket, in my side pocket.

Q What kind of a billy was it? A A small billy.

Q Show us about how long it was. A Well, about so big (indicating about 8 inches.)

Q And that was all you had? A Yes, sir.

Q When did you first see the pipe? A The first I seen the pipe was when I grabbed Lehman's hand up in the air.

Q You had never seen it before that? A No, sir.

Q What did you think that he had under your coat when you say he borrowed it from you? A I don't know. He might have had a revolver there also.

Q What did you think he had? A I didn't know.

MR. BRANDE: I object to what he thinks he had.

THE COURT: Objection overruled. Exception.

Q Did you see him have anything? A No, sir.

Q Never saw him have a club of any kind? A I seen him have a club when I grabbed his arm; I knew he had that.

Q When was that -- after you got inside there? A After

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when I came out of that little room there in the back.

Q When you came up to see Mr. Breckenridge this last time you were sent back to the Tombs, weren't you? A Yes, sir.

Q And then after you were sent back to the Tombs, you wrote a letter to the Judge? A Yes, sir.

Q Judge Swan? A Yes, sir.

Q And you told Judge Swan that you were not very well and you wanted to go away -- you didn't want to stay in the Tombs any longer? A Certainly.

Q And you wanted to be sentenced right away? A Yes, sir.

Q And you came over here to be sentenced then? A Yes, sir.

Q And it was at your own request? A Yes, sir.

Q And the Judge sentenced you because you asked him to at that time? A Yes, sir.

Q And sent you up to Sing Sing? A Yes, sir. He promised to send me to Dannemora.

Q He said he would try to have you sent to Dannemora, that's right. Where did you and Smitty go after he met you at Houston and Eldridge Streets on this morning that you killed the Chinaman? A We went on the corner, we stood on the corner a few minutes, on Stanton Street corner, Stanton and Eldridge.

Q How far was that from where the Chinaman's laundry was?

A About half a block, just about in the middle of the block like.

Q And there near the school house there? A Well, about

four houses this side, towards Eldridge Street.

Q How long did you stand there? A We stood there about five minutes; maybe a little less or more.

Q Who was with you at that time? A Smithy.

Q Alone? A Yes, sir.

Q Anybody else? A No, sir.

Q Then where did you go? A Smithy took me over near the basement there and I told him, I says --

Q I asked you where you went, I didn't ask you what anybody said there. A We went near the basement where the Chinaman was.

Q And what did you do? A Smithy told me to come downstairs.

Q What did you do? A We went downstairs.

Q Were you going downstairs right away? A Yes, sir.

Q Nobody else with you at all? A No, sir.

Q No one else in sight that you knew? A Well, I knew Paul there.

Q Where was Paul? I asked you who else was with you.

A Well, Paul was not with us.

Q Where was he? A He was supposed to stand outside.

Q Where was he, if you saw him? A After I seen him, well, he was about four or five feet away from near the basement there.

Q Was he the only one in sight? A Well, there was another fellow I knew by the name of Coco, a big fellow.

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Q Oh, you did see a Coco there? A A big fellow, yes.

Q Why did you say a few minutes ago and tell his Honor that you did not see Coco there or anyone named Coco? A Well, I don't want to get the poor fellow in trouble.

MR. EDWARDS: Oh, I see. That's all.

BY THE COURT:

Q If you do not want to get him in trouble, what did you tell Mr. Breckenridge you saw him there for, that he came down these steps? A Well, when I gave myself up I thought it is the best thing I can do to confess myself this, and I gave myself up to confess everything. I didn't have to give myself up, but I couldn't stand it. My conscience was troubling me and I gave myself up.

RE-DIRECT EXAMINATION BY MR. BRANDE:

Q I want to get this clear upon the record. I asked you the question before: You went through no examination with me, Mr. Brande, the lawyer in this case, did you, at any time? A No, sir.

Q Nor with the defendant? A No, sir.

Q Nor with anyone connected with this case, insofar as the defendant is concerned? A No, sir.

Q I didn't know what you were going to say, did I? A No, sir.

Q Did the defendant know what you were going to say?  
A No, sir.

Q And the first time you say you heard the defendant's

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name to be Nick was over in the pen? A In the pen.

Q And the word Coco was used all through these investigations, wasn't it? A Yes, sir.

Q And you got that imbedded into your mind? A Yes, sir.

Q Did you ever bring this defendant before you for the purpose of identification? A No, sir.

Q Did they ever ask you to go to this defendant for the purpose of any identification? A No, sir.

Q Did they ask you to become a witness for the prosecution in this case at any time? A No, sir.

Q Did you ever tell them you didn't know anything about Achille, when they mentioned that name? A Yes, sir.

Q They mentioned that name? A The little boy downstairs mentioned it, and I said I didn't know him.

Q That is why they didn't call you here as a witness?  
A Yes, sir.

Q How many prisoners come over from the Tombs to Part I pen when you came over for pleading -- more than four, five, six, or seven or eight, don't they? A Yes, sir.

Q You don't know --

THE COURT: Do not lead him. All the questions are leading.

MR. BRANDE: Mr. Edwards led him, your Honor.

THE COURT: He is your witness, and Mr. Edwards was cross-examining.

Q Did you know that this boy here, the defendant, was

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charged with murder at any time? A No, sir.

BY THE COURT:

Q What did you think he was charged with when he stood up at the rail along with you and Lehman? A I don't know. I thought he might be a witness against us or something.

Q Didn't you hear each one called upon to plead not guilty there? A When I got brought down from Dannemora I was sick and I didn't mind what they would do as long as they would give me my sentence and send me back. I didn't look for an indictment for him or anybody else; I was looking to get finished quick and sent back. Because when they asked me do I plead guilty or not before Mr. Judge Mulqueen, I didn't even give him a straight answer; I didn't know what to say, I didn't give him a straight answer, I didn't know what to say to him. I said, "What do you indiot me for on that? I don't know nothing about this. I know I was in it, but I didn't think that you could call me up for it," because I didn't think that I would get them two to three years for that taking off bundles, and other fellows get six months for taking bundles, and after I confessed and give myself up for it, I didn't think they would give me two to three years for that -- I thought they would give me two to three years for the whole business and I didn't look at what anybody else was indicted for. When I got indicted I sank in the chair and I didn't look around no more.

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MR. EDWARDS: I think it is only fair, Mr. Brande,<sup>175</sup> to have the record show that when these men pleaded, Nos. 1, 3 and 4, being Goldstein, Lehman and Antonio, they pleaded on the same day, April 20th; and No. 2, Achille, pleaded on the 15th of April, five days before. That makes a difference in the date of this pleading.

MR. BRANDE: They didn't plead on the same day.

MR. EDWARDS: Well, I say they did not. I wanted it to appear on the record.

MR. BRANDE: I want all the papers in evidence. The papers are always in evidence.

THE COURT: No.

MR. BRANDE: I ask now that the papers be permitted to go in evidence for the purpose of using them upon this trial to show the different states of the case in so far as the pleadings are concerned. Now that Mr. Edwards has brought that out, I want to call to your Honor's attention that this boy here, the defendant, has been called before every judge of this Court to plead, and he has been--

THE COURT: We understand that there have been several indictments which were set aside for failure to prove the corpus delicti.

MR. BRANDE: Well, I don't know that. It seems to me the conclusion of some one; I don't know that. I didn't know until today what the evidence was going to be against this boy.

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THE COURT: What has that got to do with it? You keep switching from one subject to another. Confine yourself to one at a time.

MR. BRANDE: In as much as Mr. Edwards has asked to put something in evidence ---

MR. EDWARDS: No, I have not. I have asked to note the actual date, and out of fairness to this witness to show that Achille did not plead on the same day he did. I was under a misapprehension, and the Court called that to my attention and I called it to yours, so the record would show the fact. The defendant did not plead on the same day as the other three.

MR. BRANDE: All right.

BY MR. EDWARDS:

Q You were talking to Mr. Brande, during lunch hour, between one and two? Didn't Mr. Brande, this gentleman (indicating Mr. Brande) come down and see you? A Yes, sir.

Q And you told him what you were going to testify to? A I told him I was going to tell the truth.

Q Didn't you tell him what you were going to say? A I didn't tell him.

Q Didn't he ask you what you knew about the case? A Yes, and I told him I would tell the truth, whatever I knew.

Q And didn't you tell him? A No, sir.

Q How long did he stay there? A Two minutes, then he went over to his own man.

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Q When did he see you again, when he got back? Did he<sup>177</sup> see you again when he got back from lunch? A No.

Q Didn't you come into the court room with him and the officer? A No, sir.

RE-DIRECT EXAMINATION BY MR. BRANDE:

Q You were with me about two minutes? A Yes, sir.

Q And Judge Olmstead was with me? A Yes, sir.

Q And that is all I was with you, about a minute or two?

A Yes, sir.

S I D N E Y L I V I N G S T O N (Court Attendant) called as a witness in behalf of the defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BRANDE:

Q You are attached to this part of the court, Part V continued? A I am.

Q You brought the defendant Goldstein up from the pen, did you not? A I did, yes, sir.

Q Did I at any time speak to him on your way up? A No, sir.

Q Did you see me speak to him at all? A No, sir.

Q You brought him right into court? A I did.

N I C H O L A S A C H I L L E, the defendant, called in his own behalf, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BRANDE:

(The witness states his address to be 120 East Houston street)

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Q How old are you? A Nineteen years.

Q You will be twenty next July? A No, sir.

Q You were born April 15th, 1894, weren't you? A No, sir, April 5th.

Q The certificate says April 5th, 1894 -- it is a question of a year. You will be twenty soon?

MR. EDWARDS: He was twenty last April.

Q You were born in this country? A Yes, sir.

Q With whom did you live? A My parents.

Q Where? A 128 East Houston street.

Q When did you go to work? A After I left school.

Q When did you leave school? A I cannot recall the date.

Q About how old were you when you left school? A Oh, about fifteen.

Q What school did you go to? A Public School 79.

Q Where is that? A First street.

Q Between First and Second avenues, in New York City? A Yes.

Q Then you went to work with whom? A With the American Lithographic company.

Q Is that on Fourth avenue and 18th street? A Yes, sir.

Q What were you doing there? A I was an apprentice.

Q How long did you work there? A Oh, about six months.

Q After you left there where did you go? A I went right in the same branch in the same building for the Knapp company.

Q That is to say, then, the Knapp Company had a branch of their own in that building there, where you had been working

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with the American Lithographing company? A Yes, sir.

Q And from that time on you have been working with them?

A Yes, sir.

Q At the different branches? A No, sir, in Brooklyn.

Q Well, I say you moved from that branch over to the Brooklyn branch? A Yes, sir.

Q You saw and heard the testimony of those two gentlemen that took the stand this morning in your behalf, the superintendent and the foreman? A Yes, sir.

Q You know them? A Yes, sir.

Q And you have been working with them? A Yes, sir.

Q You saw this boy Goldstein on the stand? A Yes, sir.

Q You heard what he said? A Yes, sir.

Q Did you ever know Goldtsein in your life? A No, sir.

Q When did you first see Goldstein? A Down in the Tombs Prison in the pen.

Q You were arrested on what day? A I can't recall the date.

Q Well, the day you were arrested where were you taken?

A I was taken to Police Headquarters.

Q Were you handcuffed? A Yes, sir.

Q How many officers took you? A Two.

Q Did they do anything to you? A Not going up -- yes, sir.

Q Tell us on the day that you were arrested by these officers and up to and including the time of the two days you were in the different cells what happened between you and the officers; tell the jury just what occurred at that time? A Well,

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from Headquarters they took me up to the House of Detention.  
There two fellows, I don't know their names, could not identify  
me. From there they brought me into Gouverneur Hospital.  
One of them kept me on the outside and one of them went inside,  
and spoke to some crippled boy; he spoke to him for about five  
or ten minutes, and the lights were out, it was after ten  
o'clock. They brought me in there and he says, "Yes, that's  
him." So from there they brought me up to 60 -- I don't know  
I can't recall what street, - some station house; and from  
there they kept me until 12 o'clock, and one of the detec-  
tives punched me behind the neck, and he told me I must say  
that I was over there or he would take the skin off my back,  
and he called me all kinds of names. They wouldn't make me eat  
anything and wouldn't make me go to sleep. It was after twelve.  
So thinking that I would get away, and I never knew this  
evidence would go against me, I told them what they told me --  
they were telling me and they told the district Attorney. They  
put all the names in, I never mentioned a name, because I  
never knew a fellow. From there they brought me to the Tombs,  
the next Monday morning.

Q You say all this time they gave you nothing to eat and  
you did not sleep? A No, sir.

Q Didn't even give you a bed? A No, sir.

Q You know this fellow Smith? A This Lehman?

Q Do you know him? A Well, I saw him once or twice.

Please tell his Honor and the jury your connection with

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Smitty on this fatal day. Tell us in your own way how you came to speak to Smitty, if you did speak to him on this day, and what you know about the transaction. Be free with the jurors, because you are on trial for your life.

MR. EDWARDS: I ask that counsel specify the day.

Q The day this alleged homicide took place, I am talking about? A Well I was standing near the Hippodrome on Houston street, I live right across the way, and this Smitty come over to me and he told me he is going to bring a shirt to the laundry, if I would go with him. Well, I didn't have anybody to stay with and I walked with him as far as the corner, and I left him there. Well, after he went away and I don't know what happened, he come around and told me ---

BY THE COURT:

Q What day was this? A I can't recall.

Q What day of the week? A Sunday, Sunday mornning. So the same day he came over to me and told me I should give him some money, he wants to go out of town. I told him I wouldn't give him no money. He said, "If you don't give me no money and I am going to put you in bad trouble." So I told him I wouldn't give him no money and he went away, and the next day I read in the paper there was a crime committed. That is all I knew about it.

BY MR. BRANDE:

Q You read about this chinaman? A Yes, sir.

Q Did you go down in that basement at all? A No, sir.

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Q Did you strike anybody? A No, sir.

Q Did you plan any robbery? A No, sir.

Q Did you have any intentions of robbing? A No, sir never did.

Q You were working at the time? A Yes, sir.

Q Had money of your own? A Yes, sir.

Q You have never been convicted of any crime? A No, sir.

Q Always working and living hime? A Yes, sir.

Q Something has been said about prize fights here. I want you to tell His Honor and the jury all about that also. You did go to a prize fight once in a while did you? A Yes, sir, twice or three times.

Q And you were a treasurer, or something of that kind, for some nucleus of boys or a club, or something of that kind?

A Yes, sir.

MR. EDWARDS: May I ask that counsel ask questions other than leading ones?

THE COURT: Yes, let him testify.

Q Explain to the jury your connection with prize fighting?

A Well, once in a while one of the fellows, one fellow give a fight by the name of Kiddie Baker, he fought under that name; he would get a fight and he would sell tickets, so he would give me the money to hold for him. He was afraid to give money to anybody else to hold for him. That is about all.

Q And how many fights in all in your lifetime, - four, five or six? A About four or five, that is about all.

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Q In other words, they trusted you with the money? A Yes, sir.

Q And you sold tickets? A Yes, sir.

Q Did you know the reputation of Smitty at any time? A No, sir.

Q Did you know the reputation of any of these fellows? A No, sir.

Q All you knew, you were a compositor and went to work?

A Yes, sir.

Q Did you go down to the casement there and see the Chinaman full of blood? A No, sir.

Q When you were arrested the police officers are the first ones to give you all the story as to what had happened? A Yes, sir; several times.

Q What officer was it that arrested you? A It was Di Martini.

Q Was it Di Martini? Wasn't it a fellow named Cray or Gray, other than Di Martini? A No, sir.

MR. EDWARDS: Objected to as leading? A Yes, sir.

Q You say that this boy, smitty, otherwise known as Lehman, wanted money off you? A Yes, sir.

Q And you refused to give him money? A Yes, sir.

Q Did he tell you he wanted you to go anywhere with him?

A No, sir.

Q Did he say where he was going to? A No, sir. He told me he was going out of town.

Q Well, that is what I mean. Now speak up; he said he wanted to go out of town? A Yes, sir.

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Q And wanted to take you with him? A No, sir.

Q He made some statement at some time? A Yes, sir.

Q Were you ever told that if you wanted a lawyer, you could get one? A No, sir.

Q Didn't they give you the privilege of notifying any of your relatives? A No, sir.

Q What part of the city were you arrested in? A On Stanton street between Forsyth and Eldridge.

Q So that the nearest station house would be Eldridge street, a few blocks away from where you were arrested? A Yes, sir.

Q Instead of that, they took you to 67th street? A Yes, sir.

Q And none of the officers ever notified your family? A No, sir, not that I know of.

Q Did they take you to any court at any time outside of this court? A No, sir.

Q You never appeared in any court outside of this court?  
A No, sir.

Q Or not in the Coroner's Court? A No, sir.

Q You were all alone at all times? A Yes, sir.

Q Except with the police officers? A Yes.

Q They had you all the time? A Yes, sir.

Q How long had you been locked up before I called upon you, - Mr. Brande? A About two months.

Q You didn't understand that question: how long after you were locked up did I call on you? How long were you in jail-- a week, two days, six weeks, a month? When did I come to see

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you in the Tombs after the first time, if you remember? A I  
can't recall that.

Q Well, during all these court proceedings I did not represent  
you in the Coroner's court, or anywhere else, or in the station  
house? A No, sir.

Q And no other lawyer was there? No, sir.

Q And no other representative? No, sir.

Q The only one was there was, myself and these police  
officers? A Yes, sir.

Q And they took you from one place to the other? Yes.

CROSS EXAMINATION BY MR. EDWARDS:

Q Just where they take you, Ahille? Where did they  
take you first? A They took me up to Headquarters.

Q That was from where you were arrested on Forsyth street?

A Stanton.

Q Near Eldridge? A Yes, sir.

Q They took you down to Headquarters? A Yes, sir.

Q How long did they keep you there? A They kept me there  
about an hour.

Q Then where did they take you? A They took me up to the  
House of Detention.

Q You did not stay there very long, did you? A No, sir.

Q The men there could not identify you, could they? A No, sir.

Q Then you went over to what hospital? A Bellevue.

Q It was Bellevue, it was not Gouverneur, was it? A No, sir.

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Q That was a mistake when you said on your direct examination Gouverneur? It was Bellevue? A 26th street.

Q 26th street on the river, right close to the river? A Yes, sir.

Q When you got there what officers were with you? A Well, I I don't know their names, but Di Martini was one of them.

Q How many were with you? A Two.

Q When you got up to Bellevue, what did they do? A Well, they brought me inside.

Q Inside where? A Inside of the entrance, into the yard.

Q Inside the gate, that gate on 26th street? A Yes, sir. They kept me in the yard and one of them went inside.

Q Did you see where he went? A Yes, sir.

Q Where did he go? A He went to the prison ward.

Q Where is that? A In the yard.

Q You come in the yard from 26th street, on the north side of 26th street, you go in facing north, don't you? A Yes, sir, you go in facing north.

Q Where is the prison ward as you come in the gate? A Straight north.

Q Straight up opposite you, isn't it? A Yes, sir.

Q And you saw one of the officers go in there? A Yes, sir.

Q How long was he gone? A About five or ten minutes.

Q And he came back to you? A Yes, sir.

Q You didn't see what he was doing while in the prison, did you? A No, sir.

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Q And you went in? A Yes, sir.

Q And when you went in you saw Paul De Antonio? A I saw some crippled boy.

Q You know Paul De Antonio, don't you? A Yes, sir, I see him down here several times.

Q And you knew him before you came down here? A No, sir.

Q Never saw him anywhere in your life? A No, sir.

Q Never saw him on the street over on the East Side? A No, sir.

Q And you went in there and he said you were the Coco he had referred to? A Yes, sir.

Q Then where did you go? A They took me up to the station house.

Q What station house? A I don't know.

Q How long were you at Bellevue altogether? A About twenty minutes.

Q You were arrested about what time? A About eight o'clock.

Q Do you know what time you got back to the station house?

A I got back to the station house I think around twelve o'clock.

Q What time did you see Mr. Skinner of the District Attorney's office? A I can't remember the right time.

Q You saw him that evening anyway, didn't you? A Yes, sir.

Q Sometime? A Yes, sir.

Q Have you told us everything that happened from the time you were arrested until you got back to the station house? A Sir?

Q Have you told us everything that happened from the time you

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14                were arrested until you got back to the station house? A Well,  
I don't know.

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Q Well, I wasn't there; you were. Have you told us everything that happened from the time the officers arrested you until they got you to the station house? A Well, I got hit.

Where did they hit you? A Behind the neck.

Q I mean whereabouts were they when they hit you? A Going in Bellevue Hospital.

Q Right on the street? A Yes, sir.

BY THE COURT:

Q Who hit you then? A I don't know. Some detective got me.

There were two detectives with you? Yes, sir.

Q That is Fogarty and DiMartini? A It was Fogarty.

Q. Which hit you? A. Fogarty.

BY MR. EDWARDS:

Q What did he hit you with? A I don't know. I think a little billy, whatever it is.

Q Where did he hit you? A On the neck.

Q On the back of the head? A Yes, sir.

Q With a billy? A Yes, sir.

Q That was on the street outside of Bellevue hospital?

A. Yes, 'sir.

Q In 26th street? A Yes, sir.

Q Just at the entrance? A No; a few --- before the entrance.

Q. What were you doing when he hit you? A. Nothing.

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Q Just hit you? A Yes, sir.

Q Nothing was said but he just hit you with the billy?

A No, sir. He told me, "I have got here everything. Just tell me what" I know, and all.

Q Had he told you it then? A Yes, sir, they told me the story several times.

Q When did they tell you? A In Headquarters.

Q You were down at police Headquarters? A Yes, sir.

Q Who talked to you there? A Both of them.

Q Who? A The detectives.

Q DiMartini and Fogarty? A Yes, sir.

Q Anybody else talk to you? A Not that I know of, no, sir.

Q You would know if they had, wouldn't you? Now think it over carefully. Did anybody else talk to you at Headquarters?

A No, sir.

Q No one at all except Di Martini and Fogarty? A Yes, sir.

Q What did they say to you? A They told me the crime which was committed.

BY THE COURT:

Q What did they say? A I can't recall.

Q Give us your best memory of what they told you? That is an important thing to you. Now, you can recall it. What is your best recollection of just what they said to you? A Well, they told me about the crime.

Q Just tell us what they told you? A That is all. You know about the Chink getting killed, and "I know you were in it,

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so you had better say what you know."

BY MR. EDWARDS:

Q Is that all they said to you? A Well, they called me names. They said, "If you don't we will take the skin off your back, we will fix you." They brought me in one room, it was dark; then they brought me to an inner room, and he put a light on me, and that is what he told me.

Q Anything else? Did they tell you anything else than just what you have told us? A No, sir. They said "We will find out, because we will bring you up to the House of Detention, and have you identified."

Q Yes, and they did that afterwards, and you were not identified, were you? A No, sir.

Q And then they took you to Bellevue, where Paul did identify you? A Yes, sir.

Q Did they tell you anything else to say besides what you have told us? A Not that I remember.

Q Can't you tell me a single thing they told you to say? You told Mr. Brande here a few minutes ago they told you everything that you were to say to the District Attorney?

A Yes, sir.

Q What did they tell you to say? A Well, they didn't exactly tell me what to say, but they told me the story over and over again. They said, "You went down and Lehman went down -- and Smitty went down, and everybody went down." I can't remember what they said.

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Q Did you remember it at that time? A What they said? 191

Q Did you remember what they had told you when you were talking to Mr. Skinner? A No, sir; I was all excited. I didn't know what they told me.

Q You didn't remember what they told you? A What the detectives told me? A

Q Yes. A Yes, I remember what they told me.

Q Are you sure? Did you remember? A Yes, sir.

Q Can't you tell me now what they told you? A It is about eight months ago. I can't recall.

Q Can't you tell me anything that they told you to say?

A Well, yes, sir.

Q Besides to say that you went down into the basement? A I don't know. I know they mentioned all the names.

Q What names did they mention? A Smitty, this Paul, and Goldberg, or -- I don't know his name.

Q You don't know his name? A No, sir.

Q Did they mention anything besides the names? A No, sir, they told me what part each took.

Q Well, what did they tell you, what part did they tell you each of them took? A Well, they told me Smitty said he went down with Goldstein, and two fellows were outside, that is all I remember.

Q And what did they tell you who the fellows were that were outside? A Who, the detectives?

Q Yes, I am only asking what the detectives said to you,

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get that clearly in mind. A Yes, sir. He said I was outside with the other fellow.

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Q Anything else they told you? A I can't remember, no, sir.

Q Think it over well, now, and carefully, and tell me if they told you anything else? A Yes, sir, they told me if I don't come out they will give me the electric chair, and then Captain Jones told me to say it and he will have me out right away.

Q When was that, Captain Jones? A We have not heard of him before? A The same night.

Q When did you see Captain Jones? A Up to the station house.

Q What time? A I can't recall; about twelve o'clock.

Q Before or after you saw Mr. Skinner? A Before.

Q Before you saw Mr. Skinner? A Yes, sir.

Q How long were you at the station house after you got there before you saw Mr. Skinner? A Oh, about two hours.

Q Two hours? A About an hour or two, yes, sir.

Q It has been testified here that your statement was taken by Mr. Skinner and the stenographer at 11:20; you were not arrested until 8 o'clock; that was three hours and twenty minutes before your examination by Mr. Skinner, and you have accounted for an hour at that time at Headquarters, an hour going to the House of Detention, to Bellevue Hospital, and from Bellevue Hospital, up to the station house, that covers nearly two hours and a half, and that is three hours and twenty minutes

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Mr. Skinner was there taking your examination? A Well, I told you I can't recall.

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Q Do you really think you were at the station house two hours before you saw Mr. Skinner? A Well, it looked longer --- it looked to me like two months.

Q It seemed long to you? A Yes, sir.

Q But you don't think it really was as long as that? A I don't know.

Q Can you think of anything else the officers told you to say? A They told me if I would say the way they would tell me everything would be all right, I couldn't stay long and I could get out on bail, and all that.

Q What I am trying to get at is all of the story they told you to tell. So far you have told me they told you they would take the skin off your back if you didn't tell; they told you the names of Smitty and Goldstein and Paul, who were in on the job with you; then told you that Smitty and Goldstein went down in the basement and the other two men were outside -- can you tell us anything else they told you to say? A No, sir, I cannot.

Q Not another thing? A I don't remember.

Q Well, did they tell you anything else? A I am not sure, I don't know.

Q Try and be sure, try to think it over carefully and be as sure as you can about it? A I don't remember, only they gave me some cigarettes, that is about all.

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Q They gave you some cigarettes? A Yes, sir.

Q That didn't make you feel very badly, did it? You were glad to get them, weren't you? A Well, not, exactly.

Q You don't smoke cigarettes? A Well, not much.

Q Do you smoke at all? A Yes, sir.

Q How long have you known Smitty, as you call him? Well, I know him for about six months before he was arrested.

Q Is that all? A That is about all.

Q And you knew him as a prize fighter, didn't you? A Yes, I knew him as a prize fighter. He said he was.

Q Well, he was known as Battling Smith, wasn't he? A Yes, sir.

Q And you have seen him fight, haven't you? A Yes, sir, once.

Q He used to take you in with him, didn't he? And get you in without your needing to buy a ticket at the office, that he would take you in with his crowd? A No, sir.

Q Never did that? A No, sir.

Q You are sure of that, are you? A Yes, sir.

Q Now you never saw him fight under those circumstances?

A No, sir.

Q What athletic association are you connected with?

A None whatsoever.

Q Have you ever been connected with one? A No, sir.

Q Never were the treasurer of one? A No, sir.

Q Were you ever the treasurer of any organization? A No, sir.

Q Or association? A No, sir.

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Q What connection did you have with any athletic association where they had prize fights? A None whatsoever, with the exception that I would hold the money for one fellow that fought.

Q What fellow was that? Kiddie Baker? A Yes, sir.

Q Anybody else? A No, sir.

Q Wasn't it your custom to handle prize fights? A No, sir.

Q Arrange them and sell the tickets for them? A No, sir.

Q And make a sort of a side business of selling these tickets for the boxing contents down on the Bowery? A No, sir, I sold several tickets but not for that purpose.

Q You only sold a few you mean? A Yes, sir.

Q Is that all? A That's all.

Q Weren't you selling them at the time you were arrested? A Weren't you selling tickets for two separate exhibitions? A No, sir, one exhibition.

Q Only one? A Yes, sir.

Q What institution were you selling them for then? A For a prize fight.

Q Was that the only time you had ever done that? A No, sir, I did it once or twice before.

Q You used to do it sort of along, didn't you? A No, sir.

Q Didn't you go to see one of the prize fights they had down there? A No, sir.

Q All the time? A No, sir.

Q How many tickets did you sell for this? A I don't know.

Q Can you remember the number.

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Q Well, a few or a good many? A I sold a few.

Q This was for the boxing contest at the Atlantic Garden Athletic Club at 50 Bowery, wasn't it? A Yes, sir.

Q And you were arrested in October, and this contest was to come off on the 5th of November, wasn't it? A I don't remember the date.

Q Whom did you sell these tickets to? Your friends? A Yes, sir, a few friends.

Q Just your friends around the neighborhood? A Yes, sir.

Q Did you ever sell any to Battling Smith -- Lehman? A No.

Q And you say you had only known him for six months? A Yes, sir.

Q What name did you know Paul De Antonio under? A I never knew him.

Q Didn't you know him as the Little Wop? A No, sir.

Q Did you know Joe the Wop? A Yes, sir.

Q Who is he? A He is a jamitor and a watchman -- he was, of the Houston street Hippodrome.

Q Is he a friend of yours? A Well, not exactly.

Q Well, you sold him tickets? A Well, he ain't a friend of mine because I sold him a ticket.

Q Who is Diamond? A I don't know.

Q You sold him a ticket, didn't you? A No, sir, not me.

Q Isn't this your book? A Yes, sir, that is my book.

Q Isn't that your handwriting in it? A Yes, sir.

Q All of the handwriting in there is yours? A Yes, sir.

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Q Didn't you sell those tickets? A Not all.

Q You did all the writing? A Yes, sir. I kept the writing.

Q Did you have others that were selling tickets for you and turned the money over to you? A Well, the fellow that was fighting sold tickets himself.

Q Did he make the entries in your book? No, sir, I made them myself.

Q How did the entries of the tickets he sold come in your books? A Well, he gave me the names of the fellows he sold his tickets to.

Q What did he do that for? A Because I was holding his money.

Q So that the sales came back to you, all the money from tickets sold came back to you? A Well, he would collect and give them to me.

Q Always give them to you? A Yes, sir.

Q Were you his treasurer? A Not exactly.

Q Or were you his manager? A No, sir; just made me hold his money.

Q Didn't you make a regular business of holding all his money and managing all the business end of his fights for him? A No, sir.

Q That is the only explanation of the fact that for the tickets he sold the money came to you, and the sales were all entered in your book? Yes, sir.

Who is Red Circus? That is his brother.

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Q His what? A The brother of the fellow that was supposed to fight.

Q Well, the brother of Kiddie Baker? A Yes, sir.

Q You called called him Red Circus, what is his real name?

A Circus.

Q What is Kiddie Baker's real name? A Circus.

Q Both named Circus, are they? A Yes, sir.

Q Who is Red? A I don't know, I can't remember. I didn't sell to all them people.

Q And didn't you sell Red his ticket? Is he a friend of yours too? A No, sir. I know several fellows by the name of Red.

Q Well, who is Little Yettie? A I don't know.

Q Who is the "Shrimp"? A I don't know.

Q You don't know any of these? A No.

Q Didn't sell any of them? A Yes, sir.

Q Don't you know who you sold to? You told me a little while ago you only sold --- A Yes, I sold a few of them.

Q Don't you know Little Yettie? A No, sir.

Q You don't know him? No, sir.

Q Never saw him? A No, sir.

Q Did you sell Red? A No, sir.

Q You don't know him at all? A I might know him but I didn't sell him.

BY THE COURT:

Q Where did you get those names from? A That is a copy.

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of which this Kiddie Baker gave me the names, your Honor. 199

BY MR. EDWARDS:

Q Who is "Married Man"? A Some fellow, he went out to Minneapolis, he lives out in Minneapolis, now. I don't know him.

Q You didn't send him tickets to this fight out to Minneapolis? A No, sir, but he was here at that time.

Q Is he a friend of yours? A Yes, sir.

Q What is his real name? A That is the only name I knew him by.

Q "Married Man"? A Yes.

Q You don't know what his real name is? A No, sir.

MR. BRANDE: That is assuming that that is not his real name. How does Mr. Edwards know that?

THE COURT: All right, assume that it is his real name.

Q Have you thought of anything else that the officer said to you -- told you to tell the District Attorney? A I don't remember.

Q Don't you remember very vividly that night in the station house when Mr. Skinner examined you and the stenographer took down all you said? A Yes, sir, I remember that.

Q Don't you remember it very vividly? That is the only time you were ever arrested, wasn't it? A Yes, sir.

Q Were you ever convicted of any crime before? A No, sir.

Q Never had any experience of that kind, had you? A No, sir.

Q This impressed itself on your mind a good deal, didn't it?

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A No, sir.

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Q You are in the station house, the district Attorney telling you you are charged with complicity in killing this Chinaman, and asking you questions, and the stenographer taking it down -- that didn't make any impression on you? A Well, I was frightened, because they had me in there and they were beating me.

Q Beating you when the district Attorney was there?

A No, sir, that was before that.

Q You just told us a few minutes ago that the only time they struck you was down on 26th street, outside of Bellevue Hospital; Now that was at least half or three quarters of an hour before you got up to the station house; you said you stayed in the hospital about twenty minutes? A (No answer).

Q Did they beat you any more besides that one time? A Yes, sir.

Q When and where? A In the station house.

Q Who beat you? A I don't know who it was. They all were shoving me this way and that way.

Q How many of them? A There were about six or eight in there.

Q Where did they beat you? A All over, they were pushing me all over.

Q Where did they hit you? A Well, they didn't exactly hit me but they were pushing me all around.

Q How were they pushing you around? Describe it to us.

A They got me by the collar and were pushing me this way

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and that way.

Q Who did that? A I don't know; there was a bunch there.

Q How many were there? A Six or eight.

Q Who were they? A I don't know.

Q Didn't you know any of them? A Well, the two detectives.

Q Di Martini and Fogarty. Anybody else? A Captain Jones  
in there.

Q Did he hit you? A No, sir, he didn't hit me.

Q He didn't touch you, did he? A No, sir.

Q Did he let the others hit you all they wanted to? A Yes,  
sir.

Q He did. Now, who else was there? A I don't know.

Q Was the inspector there at that time too? A I don't  
know.

Q Don't you know the uniform when you see it? A No, sir.

Q How long have you lived in New York? A I was born in  
New York.

Q And you don't know a police inspector's uniform? A No, sir.

Q Do you know a police captain's uniform? A I don't know  
what you mean. I know they call them lieutenants.

Q You know they dress differently from the patrolmen, don't  
you? A Yes, sir.

Q Their coats and hats are a little different? A Yes, sir.

Q How many captains were there in the room that night with  
you? A I don't know. I don't remember.

Q How many men in uniform were there? A I don't think --

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I don't know, I can't remember.

Q Mr. Skinner was there anyway, wasn't he? This gentleman who testified here on the stand that he was deputy assistant District Attorney, who took your statement, he was there, wasn't he? A I don't remember, he may be.

Q You don't remember whether he was there or not? A I don't remember his face.

Q Don't you remember that you made a statement? A Yes, sir, I do.

Q Don't you remember the district attorney asking you what your name was? A Yes, sir.

Q Don't you remember telling him it was Nicholas Achille? A Yes, sir.

Q Don't you remember telling him where you lived? A Yes, sir.

Q And your telling him you lived at 128 East Houston street? A Yes.

Q You remember that, don't you? A Yes, sir.

Q Was anybody hitting you then? A No, sir.

Q Was anybody touching you at all then? A They were all around me, behind me.

Q Was anybody touching you at all at that time? A No, sir.

Q Did Mr. Skinner threaten you with anything? A No, sir.

Q Did you tell him they had been maltreating you? A No, sir.

Q Did Mr. Skinner say to you, "I am a Deputy Assistant to the District Attorney? A Yes, sir -- I don't remember.

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Q Did he tell you he was a Deputy Assistant District Attorney? A I don't remember.

Q Didn't you know he was from the District Attorney's office? A No, sir, I don't remember.

Q Didn't he tell you he was from the District Attorney's office? A I don't remember.

Q You can't remember that even? A No, sir.

Q Didn't he say to you, "You have been arrested charged with being implicated in the death of Charlie Lem on the 18th of August, 1912. Now, you don't have to say anything if you don't want to, and anything you do say may be used against you. I want to ask you some questions and I would like you to answer them. Suppose you just tell us the store of what you know about it"? Did he say that to you? A Not that I remember.

Q You don't remember that? A No, sir, I was all excited.

Q You never heard that at all? A No, sir.

Q Didn't you say "The story of what I know about it?", and didn't he say, "Yes, the whole story"? A Maybe I did.

Q Didn't you then say "I can't remember it, going into details, I will give you a short, brief story"? Didn't you say that to him? A I don't remember that, either. I don't remember any of that.

Q Didn't you go on and say "These here fellows were experienced fellows in that case, they did a similar case before this and I can prove it"? A I don't remember that, no, sir.

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Q Did the police officers tell you to say to the District Attorney that these men had done something like this before, and you could prove it? A I don't remember that, either.

Q You don't remember that they told you to say that? A No, sir, I don't remember.

Q Then, "Q When you speak of these here fellows, whom do you mean? A Well, I really can't mention that small boy's-- the young fellow brought me over there, because I don't know him, but this smitty and the other boy. Q What is his name? A Goldstein." --- No, sir, they put in that name.

Q Did you say that? A No, sir.

Q So that is not so? A Well, maybe I did, but I don't remember that; I don't think so.

Q Did the police officer tell you to say that that way, "Well, I can't really mention that small boy's -- the young fellow brought me over, because I don't know him, but this Smitty, and the other boy. Q What is his name? A. Goldstein"; did they police officers tell you to say that? A Well, I don't remember. I was too excited, I don't remember what I was saying.

Q Can't you remember whether the police officer told you to say that? A No, sir, I can't.

Q How can you remember that you said then to the District Attorney what they told you to say, and only that, if you cannot even remember that they told you to say this or not? A I don't know what I was saying at that time.

Q Then did Mr. Skinner say to you "All right, go ahead", and

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you answered "They did a similar case on Forsyth street"? A I  
don't remember.

Q Well, did the police officers tell you to say that? A I  
don't remember.

Q You don't remember whether they told you to say that or  
not? A No, sir.

Q Did you ever hear of Smith and Goldstein doing a similar  
case on Forsyth street? A No, sir.

Q Never heard of it in your life? A No, sir.

Q And nobody told you to say that? A No, sir.

Q And how did you come to think of it then? A I never  
knew what I was saying at that time.

Q This was just something that you did not understand at  
all yourself. You were just talking, - is that what you want  
us to understand? A Well, I don't know; I think so.

Q You didn't know what you were saying, and no one had  
told you to say it, is that right? A Well, they told me a  
lot of stories, but I don't remember what I was saying.

Q You just said nobody told you to say that about Smitty  
and Goldstein doing a similar trick on Forsyth street? A I  
said I don't remember that.

Q You don't remember it at all? A No, sir.

Q Then do you remember this: "Q When? A Oh, about two  
months before this, two months before this case." Did you say  
that? A No, sir, I don't remember that.

Q Well, did you say it? Will you say you did not say it?

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A Well, I can't really say I did not really say it.

Q Who told you to say it, if you didn't say it? Did the police tell you? A I can't remember that. They told me a lot of things.

Q I see, but you cannot remember that. Then do you remember this: "Q Did you all get together and make a plan to put the job through on the 17th of August? A No, it was not no plan; they just went over to rob him and I went with them. I stood outside. Q To rob whom? A This Chinaman. Q Charlie Lem? A I don't know his name. Q At 54 Stanton street? A I don't know the number. Q Was it in that neighborhood? A Yes, sir.

Q Near what street? A Near Eldridge street". Did you say that? A No, I am not positively sure, but if it is there I said it.

BY THE COURT:

Q Can't you remember anything you said to Mr. Skinner?

A No, sir, I was all excited.

Q Do you get excited very easily? Can't you remember a single word you said to him or that he said to you? A No, sir, I don't recollect.

Q Can't remember a single word that he said to you or a single word that you said to him? A No, sir.

BY MR. EDWARDS:

Q Do you remember this question that he asked you and your making this answer: "Q Did you get together with these fellows on the 17th of August, 1912 at Houston street near Eldridge

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and make plans to go down there? A No, sir, I didn't have any plans whatsoever.

"Q But you went down on the 18th? A Yes, sir. They went down there to rob him, and I stood outside with some other kid. I don't know the other fellow." A I don't know, if it is there I said it.

Q Well, did you say it? A I don't know, I can't swear to it.

Q Did anybody tell you to say that? A Not exactly that.

BY THE COURT:

Q Well, why do you say it if nobody told you to say it, if you did say it? You say if it is there you said it. Now, why do you say it? A Because I was told to say it.

Who told you to say it? A The detectives.

Didn't you just say that nobody told you to say that exactly? A Well, not exactly that.

Q Well, what did they tell you to say? A That I don't remember.

Q Then how did you come to say this? A I don't know how I come to say it. I was too excited.

BY MR. EDWARDS:

Q Do you remember his asking this question, and your making this answer: "Q Who went down? A This smitty and the other fellow Goldstein, they went down and they stayed down there about five minutes, three minutes, and I went down. When I went down I saw this chinaman all blooded up; I ran out when I saw that sight, I ran away and that is all, they ran after me."



Did you say that? A Your Honor, I don't remember anything, I didn't know what I said.

Q Will you say you didn't say it? A Well, I wouldn't swear to it.

Q Well, do you say it now? A I don't know.

Q Who told you to say that? Anybody? A To say what?

Q What I have just read to you? A Well, if I said it I was told to say it.

Q Well, I didn't ask you that; I asked you if anybody asked you to say it, who was it? A The detectives.

Q Which one? A Everybody in the room, I can't remember their names.

BY THE COURT:

Q Did anybody tell you to say that? A They told me to say everything in there.

BY MR. EDWARDS:

Q Did they tell you that? A I don't remember -- yes, sir, I think they did.

Q Which one told you? A That I don't remember. There was too many in there.

Q Do you remember this question: "Q Where was the china-man when you got down there? A Lying on the floor.

"Q All bloody, did you say? A Yes, sir.

"Q Anybody else around there? A No, sir.

"Q What was your part of the plan? Were you to stand outside and give them warning if any one came along? A Well, that

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is about all.

"Q Did anyone come along that made it necessary to give any warning? A No, sir.

"Q If anybody had come along you would have warned them?

A Why, yes, sir." Do you remember those questions and answers that you gave? A Some of them.

Q Well, did you say those things? A I don't remember saying all of them.

Q Which ones do you remember? A The last one.

Q Which, when they asked you if anybody had come along would you have warned them? A Yes, sir, that is the time I was poked by the detective.

~~Q~~ A detective poked you then when you said that? A Yes, sir.

Q Did anybody poke you when you were asked "Did any one come along that made it necessary?", and you said "No" -- did any one poke you then? A No.

BY THE COURT:

Q You just remember that one time, that is the only thing you remember? A Yes, sir.

Q Did any one poke you when you said you saw the Chinaman all blooded? A That I don't remember.

Q How near were you sitting to Mr. Skinner when Mr. Skinner talked to you? A About four feet, - three feet away.

BY MR. EDWARDS:

Q Who was sitting beside you? A That I don't know.

Q You were sitting down, weren't you? A Yes, sir.

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Q You had a comfortable chair there at the table there?

A yes, sir.

Q A stenographer at the same table? A Yes, sir.

Q Mr. Skinner at the same table? A Yes, sir.

Q Anybody else at that table? A Yes, sir.

Q Who? A The detectives.

Q Where were they sitting? A Behind me.

Q Then they were not by the table, were they, if they were behind you? A Well, they were sitting near it.

Q How near you were they? A Right close to me.

Q How often did they poke you? A Several times.

Q Did they poke you when you were asked, "Where was the Chinaman when you got down there", and you said "lying on the floor," did they poke you then? A I don't remember then.

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Q Who told you to say that you saw the Chinaman down in there all blooded up, -- anybody? A I don't remember that.

Q Did anybody tell you that? A I don't know.

Q Who did, if anybody did? A The detectives.

Q You don't know whether you were told to say that or not, do you? A I don't remember. I think the detectives told me that.

Q Now, we want you to be sure about it. Did anybody tell you to say that or not? A Well, if I said it they told me or I wouldn't say it.

Q Did anybody tell you to say that? A I don't remember that.

Q Do you remember anything at all besides this one poke you got? A I know I was talking, but I don't know what I was saying.

Q Do you remember this question: "Q Before these two fellows went down to go at the Chinaman did they provide themselves with anything to do the job? A I don't know. They had everything ready.

"Q What did they have? A I didn't see what they had"? Did you say that? A Yes, sir, I think I did say that.

Q Was that true? A I don't know what you mean.

Q Isn't that a plain question? Was that true? A That I said it?

Q Was what you said true? A No, sir.

Q It was not? A No, sir.

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Q Who told you to say that? A Who told me to say what?

Q What I have just read you. A Nobody.

Q Nobody told you to say that. How did you come to say it then? How did you come to say they had everything ready? A You told me to say -- it is not ready?

Q I say, who told you to say what I have just read you? A I don't know, I don't remember.

Q You don't remember. Did anybody tell you to say it? A I don't remember.

Q You don't remember that? A No, sir.

Q Well, did you say it? A Yes, sir, I think I did.

Q And you don't remember whether anybody told you to or not? A No, sir.

Q Did you go on with these questions and these answers:

"Q Did you know that they had anything? A I knew they had something under their coats.

"Q What was it? A I don't know what they had, if it was a stick, or what it was.

"Q How did they hold it under their coat? A They had their coat off, their coat under their arm.

"Q Which one had the coat under the arm? A Not Smitty, the other one"? Did you say that? A I don't know. There is too many questions there.

Q Well, I will read them to you one at a time:

"Q Did you know that they had anything? A I knew they

had something under their coats." Did you say that? A Yes.

Q You did? A Yes, sir.

Q Then was this question asked you:

"Q What was it?" And did you answer, "I don't know what they had, if it was a stick, or what it was?" Did you say that? A Yes, sir.

Q You said that? A Yes, sir.

Q Then was this question asked you, "How did they hold it under their coat? A They had their coat off, their coat under their arm?" Did you say that? A Yes, sir.

Q Was this question asked:

"Q Which one had the coat under the arm?" And you answered, "Not Smitty, the other one?" A That I don't remember.

Q You don't remember that? A No, sir.

Q How did you remember all those others and you cannot remember that one? A (No answer.)

Q Let me read you the next question:

"Q Goldstein? A Yes, sir." Did you say that? A No, I am not sure.

Q You can't remember that? A No, sir.

Q Will you swear you didn't say it? A Well, I wouldn't say I didn't say it.

Q Can't you remember whether you said that or not? A If it is there I said it.

Q Did anyone tell you to say that? A They told me to



say the whole story.

Q Did anybody tell you to say that? A I don't know if I said it or not.

Q Why, you said that you remembered it all but that last single question, didn't you? Didn't you just tell me that you said you made the answer, "I knew they had something under their coat?" Then you made the answer "I don't know what they had, whether a stick, or what it was," and you made the next answer, "They had their coat off, their coat under their arm?" A Yes, sir.

Q You admitted all that, that you said all that? A Yes.

Q Who told you to say it? A The detectives.

Q Which one?

BY THE COURT:

Q Did the detectives tell you to say you didn't know what kind of weapons they had, that you couldn't tell them that? A No, sir, they didn't tell me that.

Q What? A I don't remember that, your Honor.

BY MR. EDWARDS:

Q Well, did they tell you that? A I don't remember that.

Q Did the officers tell you to say when Mr. Skinner asked you what weapons they had, to say you didn't know? A I don't know, I don't remember that.

BY THE COURT:

Q You just said the officers told you to say that. Now don't say a thing unless you know it is so. Did they tell

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you to say you didn't know what weapons they had or not? You said a minute ago they did. Now, is that true or not?

A Yes, sir.

BY MR. EDWARDS:

Q Which officer told you to say that? A I don't remember the officers. I didn't know any of them at that time.

Q It was one of the two that asked you? A I don't know, there were several of them there.

Q Can't you remember now after you have thought it over whether you made this answer -- "Q Which one had the coat under the arm? A Not Smitty, the other one." A I don't remember that.

Q Did anyone tell you to say that? A No, I don't know.

Q Don't you know whether anyone told you to say that or not? A I can't remember what they told me to say.

Q You can't remember? A No, sir.

Q You are saying to about four out of every five that you don't remember who told you to say that. A No one.

Q Nobody? A No, sir.

Q Can't you remember whether or not anybody told you to say that it was not Smitty who had the coat over his arm, that it was Goldstein? A No, sir, I can't remember.

Q You can't remember whether anyone told you to say that or not? A No, sir.

Q Then this question: "Q What did Smitty have? A I don't know. I really don't know."

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"Q Do you know whether Smitty had anything or not? A No, sir, I can't say." Did you say that? A To tell you the truth, I don't remember anything I said there.

Q Well, did you say that? Don't you remember that?

A No, sir, I don't remember that. If it is there I said it.

Q All right, we will assume that you said it. Then can you tell us now why you said it? A No, sir, I can't tell you.

Q Did any officer tell you to say that you didn't know whether Smith had a weapon or not? A Well, I can't remember what the officers told me, everything; I can't remember everything.

Q Can't you remember anything? A Well, not all.

Q Can you remember any of it? A I don't know, it is too far apart, too far away.

Q Can't you remember whether any police officer said to you, "If the District Attorney asks whether Smitty had a weapon, tell him you don't know?" Did any police officer tell you that? A No, sir.

Q None of them did tell you that? A No, sir.

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

Q You are positive of that? A Yes, sir.

Q Then can you tell us how you came to say it? A No, sir. I don't know.

Q How about this question of Goldstein having the coat on

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his arm, did you know that? A No, sir, I don't remember that.

Q You can't tell us whether anyone told you to say that or not? A No, sir, I can't remember that.

Q Do you remember this question being asked you:

"Q How was Smitty dressed on that day? A I don't remember.

"Q How was Goldstein dressed? A That I don't remember.

"Q Did they have hats on? A No, sir, caps on."

Do you remember saying that? A No, sir.

Q Did they have caps on? A I don't know.

Q Why did you say they had caps on then? You did say that, didn't you? A I don't know if I said it or not.

Q I thought you told me a moment ago that you said everything that was here. A Well, if it is there; I am telling you I won't say.

Q Well, I will show it to you, read it for yourself.

(Now indicating while reading): "Did they have hats on?"

A No, sir, caps on." It is there, isn't it? A Yes, sir.

Q Do you see it, A Yes, sir. If it is there, I said it. I didn't know.

Q How did you come to say that? If you were not there, how could you tell them they had caps on? A Well, the detectives must have told me.

Q Who told you? A The detectives told me.

Q Well, did they tell you? That is what I want to get at.

A Well, they told me lots of things.

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Q Did they tell you to say these boys were wearing caps instead of hats? A I don't know. I can't tell you positively that they did or not.

Q Can you tell us why you said it if they did not, unless you were there and knew? A (No answer.)

Q Can't you answer that question? A No, sir.

Q You can't answer it at all? A No, sir.

Q Do you remember this question and this answer:

"Did the other fellow have his coat off? A What fellow?

"Q Goldstein. A Why, yes, sir, he did.

"Q Both had their coats off? A No, sir, only one.

"Q And the fellow who was carrying something under his coat had his coat on, is that right? A Yes, sir.

"Q So that only one of them did finish the Chinaman?

A That I don't know, I didn't see." Did you say that?

A Yes, sir, I said that.

Q Well, is that so? A I don't know what you mean.

Q Well, was that statement that you then made, true?

A No, sir; that is what they told me to say.

Q Who told you to say that? A The detectives.

Q Do you mean us to understand that the detectives told you that they wanted you to say to the District Attorney that you didn't know who killed the Chinaman -- you didn't see whether one of them or both of them did it? A I don't know that.

Q Don't you know whether the officer told you to say that

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or not? A No.

Q Don't you know that no officer told you to say that?

BY THE COURT:

Q That is a plain question. Did the officer tell you to say that you didn't know who killed the Chinaman? A No, sir.

BY MR. EDWARDS:

Q Then why did you say it? A Because I don't know.

Q But nobody told you to say that? A No, sir.

Q Do you remember this question: "You do not mean to say that you were there as a lookout and nobody was to make any alarm? They told you what to do? You knew what was going to happen, didn't you? A No, sir. I knew they were going to rob him." A I remember saying that.

Q Did you say that? A Yes, sir.

Q Was that the fact? A No, sir, it was not the fact.

Q Who told you to say that? A The detectives.

Q What detective? A I don't know. There were too many around there, they were puzzling me up.

Q Altogether? A Yes, sir.

Q Were they all beside you while you were talking to the District Attorney? A Right behind me.

Q Were they all there while you were talking to him?

A They told me the story over and over again, too, several times.

Q When did they get the chance to tell it to you? A Before the District Attorney was there.

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Q When did they begin to tell you about it? A From the Headquarters and to the station house.

Q All the way up from Headquarters? Did they tell it to you at the House of Detention? A No.

Q Did they tell it to you at Bellevue Hospital? A Well, not exactly in there, but on the road.

Q Did they walk you all the way or did you ride up? A I rode part of the way.

Q You went up on a car, didn't you, from the House of Detention to Bellevue? A Yes.

Q And on the car going up they were beating you and telling you what to say? A They were not beating me on the car.

Q They were telling you what to say? A Yes, sir.

Q You didn't make any objection at all? You listened to what they were telling you? A No, I told them I wouldn't say it.

Q But you did? A After they struck me. I didn't want to be struck.

Q I see, you would say anything rather than be struck, wouldn't you? So which one of the officers told you, when you were asked to say if you knew what was going to happen, to say no, you didn't know what was going to happen, but you knew they were going to rob the Chinaman? Who told you to make that fine distinction that you didn't know they were going to kill him, but did know they were going to rob him?

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Which officer said that to you? A I don't remember that.

Q Did any officer say that to you? A I can't swear correctly; I can't remember that.

Q You can't remember that? A No, sir.

Q Wouldn't that be one of the most important things to you? Couldn't you even remember that? A I don't know.

Q Do you remember this question: "Q And you knew that you were going to tell them if anyone came along to disturb them? A I knew they had me there for that." Did you say that? A That question I don't remember.

Q You don't remember that either? A No sir.

Q Did anybody tell you to say that? A I don't know.

Q You don't know that? A No, sir.

Q Well, did you say it? A I don't remember if I said it.

Q Will it help your recollection any to see it? Will that help you any? (Handing witness minutes.) A Well, you explained it to me plain enough.

Q Well, there is the question, that Q stands for question, and that A is for answer -- is it there? A Well, if it is there I said it.

Q Did you say it? A If it is there I said it.

Q Who told you to say it? A I don't remember that.

Q Did anybody tell you to say that? A Well, they told me to say lots of things, but I don't remember what.

Q Did anybody tell you to say that? A I don't know.

Q You don't know. Isn't it a fact that you said it be-

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cause it was true? A I don't know.

Q You don't know? Do you know whether it is true or not?

A Your Honor, I am all puzzled up; I don't know what to say.

Q Do you know whether that is true or not? A What is the question?

Q You said "I knew they had me for that," referring to the question, "And you knew you were to tell them if anyone came along to disturb them?" And your answer was, "I knew they had me for that." A What do you want to know?

Q I want to know if no one told you that. Didn't you say that because it was true? A (No answer.)

BY THE COURT:

Q Upon there it states that you said they had you there so as to warn them if anybody came; the question is did you say that because it was true? A No, sir.

BY MR. EDWARDS:

Q Well, why did you say it if nobody told you to say it?

A I don't know.

Q You cannot give us any reason for it at all, can you?

A (No answer.)

Q Do you remember this question: "But you knew what was going to happen?" A In what way?

"Q That they were going down to rob. A Oh, sure, yes, sir." Did you say that? A I don't know. Everything is there I said. I don't know if I said, I don't remember. If it is there I said it, that's all.

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Q What I want to get at -- A I can't remember what they told me to say and what they didn't tell me. That is over eight months ago.

Q I see; it is a pretty important matter, isn't it?

A Yes, sir, it is.

Q And I am refreshing your recollection all I can, I am reading you every question and every answer? A Yes, sir, but I can't remember it.

Q Can't you remember whether anybody told you to say that you knew that they were going down to rob the Chinaman, but you didn't know they were going to kill him? A If it is there I said it.

Q Well, can't you tell me whether anyone told you to say it or not? A I told you before they told me to say lots of things and I can't remember them all.

BY THE COURT:

Q Can you remember that? Were you told to say that by the officers, that you didn't know -- A I don't remember it.

BY MR. EDWARDS:

Q Then this question: "Q Which one told you they were going to do that? A The two of them were talking about that.

"Q Where? A Going down.

"Q Which two? A This Smitty and the other Goldstein.

"Q Going down where? A While walking down toward the place." Did you say that? A Well, I said it if it is

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there.

Q Well, did you say it, -- not if it is there, but did you say it? A That I am not sure, I am not positively.

Q Don't you even know whether you said that or not?

A No, sir, I don't remember it.

Q Do you know whether anybody told you to say that?

A I told you before they told me lots of things to say.

Q Do you know whether anybody told you to say this that I just read you? A No, sir, I don't know.

Q Did anybody tell you to say it? A I don't know.

Q Did you know of this killing of the Chinaman when it happened? A When it happened?

Q Yes, the day it happened. A No, sir, I knew it the next day.

Q What, Monday? A Yes, sir.

Q How did you find it out that day? A I read it in the newspapers.

Q Had you ever thought of it from that time until the time you were arrested? A Thought of what?

Q This killing of the Chinaman. A No sir.

Q Never thought of it at all? A No, sir.

Q Sure of that? A Yes, sir.

Q Do you remember this question: "Q What did you do when you saw what you did see when you went down? A I ran away.

"Q Where did you go? A I ran home.

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"Q Where did you go from there? A Nowheres. Outside, just the same as I ever did." Did you say that? A I am not positive of anything I said there, so I don't want to lie. I don't know.

Q Was that the truth? Had you been all around outside of the place this happened, just the same as always?

A Yes, sir.

Q You had never given it a thought, had you? A No, sir.

Q No reason why you should? A No, sir.

Q You didn't have anything to do with it? A No, sir.

Q Do you remember this question: "Q Where have you been since then? A I wanted to confess, but I was afraid of losing my job." Did you say that? A No, sir, I don't remember it.

Q Well, look at it and see whether you said it or not.

A Well, if it is there I said it.

Q Well, did you say it? There is the question and the answer I just read you -- the Q and the A. A I don't know if I said it.

Q Did you say it? A If it is there I said it.

Q Look and see if it is there. A It is there.

Q Well, then, did you say it? A I said it.

Q Who told you to say it? A That I don't remember.

Q Did anybody tell you to say it? A I can't tell you; I don't remember.

Q Now listen to this answer of yours. The question does

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not ask you why you did not confess; the question says, "Where have you been since then?" That is, since the murder. Now, your answer is, "I wanted to confess, but I was afraid of losing my job." A I don't remember saying that.

Q Haven't you just told me you did say it? A Well, I didn't say the answer. I don't remember saying the answer though.

Q Let me show it to you and see whether the answer is there or not. I don't want you to misunderstand it or to be confused. Here is your question beginning with this Q and here is the answer beginning with this A; now read them both. A It is there.

Q Did you say it? A Yes, sir, I said it. If it is there I said it.

Q Did you say it? I have shown it. Now, did you say it? A Well, it could be put in there. I don't remember saying it.

Q Did you say it or didn't you say it? A I don't remember.

Q Can you tell me whether you said to the District Attorney "I wanted to confess?" Can't you remember that? A No, sir.

Q You can't remember that? A No, sir.

Q You say all this story you were told to say by the officers? A Sir?

Q You were told to say this by the officers, weren't you?

Everything that you have said to the District Attorney you are telling us that the officers told you to say the whole story? A Well, I don't -- they didn't tell me to say exactly the same words, but --

Q The words are yours but the story is theirs, is that the idea? A Yes, sir.

Q And does that include all of your statement to the District Attorney? A I don't know.

Q Did you ever see Smitty after the crime was committed?

A No, sir.

Q Did you ever tell the officers that you saw him afterwards? A I don't know, no, sir.

Q Don't you know whether you told the police officers?

A No, sir, I never saw him.

Q Did you ever tell the police officers you did after you were arrested? A I don't remember that I did.

Q You didn't tell them any lies, did you? A Tell who lies?

Q The police officers. A No, sir.

Q Well, then, if you didn't see him you didn't tell them that you did, did you? A If I didn't see him?

Q If you didn't see Smitty after the killing of the Chinaman, you didn't tell the officers that you did see him, did you? A No, sir, I wouldn't lie.

Q No, of course not. Did the officers ever tell you to say that you saw him after the crime? A I can't remember

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that either.

Q Can't you remember that? A No, sir.

Q Well, did you tell the District Attorney that you saw him after the crime? A I don't know.

Q Do you remember this question: "Have you seen any of these three fellows since then? A The two fellows, I guess." Did you say that? A I am telling you I don't know what I said. If it is there I said it.

Q Did you say that? A I can't remember everything.

Q You cannot remember anything? A If I did say it, I don't know whether I did say it or not.

Q You can't say whether you said that or not? Will you say you did not say it?

MR. BRANDE: I think it is about time that I should object to this cross-examination.

THE COURT: Well, he has already answered.

MR. BRANDE: The witness has stated that if it is there he said it, only he cannot remember the date he said it. He said that all through this line of cross-examination. It is to create an impression as though he was trying to lie out of it. He said "If it is there I said it, but I can't remember it, whether I said it."

Q Do you remember this question: "Q Who have you seen? A Smitty and Goldstein I saw quite a while ago.

"Q Where did you see Smitty? A I used to go up there to the moving pictures, around Houston Street." Did you say

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that? A I don't know. If it is there I said it, that's all. I don't remember what I said in there.

Q This whole statement, you said everything in this statement, didn't you, if it is written here on the paper you said it? A Well, I did.

Q Yes. Were you asked this question: "Did you ever talk to him," (that is to Smith), "about this? A Why, yes, I told him it was a mean thing he did. I told him what would happen if they caught me, what would happen if he killed him. He told me he did one fellow that, but he never killed a Chinaman." A I don't remember.

Q You don't remember that? A No, sir.

Q Do you remember anybody telling you to say that? A I don't remember.

Q You don't remember anyone telling it to you, do you?

A I don't remember.

Q Do you remember whether they did or not? A I don't remember.

MR. EDWARDS: I offer in evidence the statement from which I have been cross-examining the defendant, with respect to which he says that everything that is in it he said.

THE COURT: You offer the whole statement, or that part to which you called his attention?

MR. EDWARDS: I offer the part I called to his attention, although there is very little omitted; there were

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one or two pages at the end which did not seem to be very material, and there was an occasional question which wandered from the point; but I offer the parts I have read, as they appear on the stenographer's record.

MR. BRANDE: Objected to on the ground it is irrelevant, immaterial and incompetent, not binding upon this defendant. His answer was if he said it it is there. And, "If I said it it is there."

THE COURT: I think you had better call the stenographer and prove it by him.

MR. BRANDE: If they had been kind enough to give the defendant a copy of the statement so that he could have used it, I think then we could have been on equal grounds. Here they take a boy and surround him with officers --

THE COURT: Are you making an objection?

MR. BRANDE: Yes, sir.

THE COURT: I have already ruled on it in your favor.

Q What time was it on this Sunday morning that you first saw Smitty? A About 8 o'clock.

Q Where did you see him? A In front of the Hippodrome.

Q What did he say to you? A He says he was going to bring a shirt to the laundry and would I take a walk with him.

Q What did you say? A I walked with him as far as the corner.

Q What corner? A Eldridge and Houston.

Q What laundry did he say he was going to? A I don't

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know.

Q Didn't he tell you where he was going? A No, sir.

Q Did he tell you where he wanted you to take a walk with him? A He said to bring the shirt to the laundry.

Q But didn't tell you where the laundry was? A No, sir.

Q How far was this you walked with him altogether? A Oh, about half a block.

Q Did you see anybody else you knew while you were walking with him? A No, sir.

Q No one at all? A No, sir.

Q No one else spoke to you? A No, sir.

Q Where did you go when you left him? A I went home, on account it was starting in to rain, I guess, something like that.

Q It was a rainy day, wasn't it? It was a rainy morning, wasn't it? A I think it was.

Q Aren't you sure about that? A No, sir.

Q What makes you think it was now? A Yes, it was a rainy day.

Q What makes you so sure it was a rainy day? A Because I was staying under the Hippodrome, under the --

Q I see; this was eight months ago. Are you sure that you remember that accurately? A Yes, sir.

Q No question about that at all? A No, sir.

Q And you are sure that you met Smith that day, that morning? A Yes, sir.

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BY THE COURT:

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Q You were not arrested until a year after that? A No, sir.

Q And all this time you did not know that you had anything to do with this crime? Between the time the Chinaman was killed, and the time you were arrested, you didn't know that anybody was going to accuse you of this crime? A No, sir.

Q You didn't know you had any more connection with it than I had? A No, sir.

Q How did you happen to remember that you met Smitty on the 18th day of August and he showed you a shirt? What called that so much to your attention? If you didn't know you were going to be charged with any crime how did you happen to remember that? Because I remember that day well, your Honor.

Q How do you happen to? Do you remember it any more than any other day? A Because I knew a crime was committed that day; I knew some crime was committed that day because they told me.

Q Well, there are lots of crimes committed in New York City. Do you remember what you did every day somebody commits a crime here? A No, sir.

Q How do you happen to remember that day? A I don't know, your Honor.

BY MR. EDWARDS:

Q Was told you the crime had been committed on that day?

A Yes, sir.

Q On that Sunday.

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Q When on the Sunday? A Towards the afternoon.

Q What crime did he tell you he had committed? A Well, he didn't tell me. He told me he hit somebody over the head, and he needs some money.

Q He told you that? A Yes.

Q Didn't you tell your counsel he came and asked for money to go out of town, and the next day you found a crime had been committed, that a Chinaman had been killed. Which is true? A Both.

Q Lehman told you the day he asked you for money and you found it out next morning, and both are true? A Well, I really found it to be true the next morning when I read it in the paper.

Q You did not believe Lehman when he told you?

BY THE COURT:

Q The next day you saw that the ghinaman had been killed?

A Yes, sir.

Q And Lehman told you he had done it? A Yes, sir.

Q Did you tell the police? A No, sir.

Q Did you tell anybody? A No, sir.

Q Well, you are a respectable citizen, working in a printing shop, why didn't you tell somebody that you knew who had killed that ghinaman? You say that this man was not a particular friend of yours, was he? A No, sir.

Q Why didn't you tell? A I don't know, your Honor. I didn't have the thought of telling.

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BY MR. EDWARDS:

Q How far did you and Lehman walk, to the corner of Houston street, did you say? A Yes, sir.

Q Houston and what? A Eldridge.

Q How far is that from the Chinese laundry? A I don't know.

Q Don't you know where 54 Stanton street is? A About two blocks.

Q That is as close as you went that day to the laundry?

A Yes, sir.

BY THE COURT:

Q If you are not a friend of Lehman's, do you know how he happened to tell you that he had done this, if you had nothing to do with it? A Yes, sir, he asked me for money.

Q How did he come to pick you out if you were not a particular friend of his? A Well, he knew I had money.

Q And then he told you he had done it? A Yes, sir.

Q Did you ask him any questions about it? A No, I didn't care about it.

BY MR. EDWARDS:

Q You didn't care how many Chinamen were killed? A Well, I couldn't help it.

RE-DIRECT EXAMINATION BY MR. BRANDE:

Q During all this time that you were with these officers, I believe I asked you the question, did they give you any food or anything to eat anywhere? A No, sir.

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Q When did they take you down to the Tombs for the first time where you could get a bed and something to eat? A On the following Monday.

Q And you were in these station houses all the time? A Yes, sir.

Q Up to that Monday? A Yes, sir.

Q And you were questioned day in and night out?

THE COURT: Now, do not put the answers in his mouth. Let him testify.

MR. BRANDE: Your Honor can tell from the demeanor of the witness that he is frightened to death now.

THE COURT: He may testify if he wants to.

BY THE COURT:

Q Weren't you in a cell at the station house? A Yes, sir.

Q Wasn't there a cot in the cell? A Just a board.

Q Was there anything to prevent you from lying down and sleeping on it? A Well, I couldn't sleep.

Q Well, was there anything to prevent you from lying down on the board? A Well, no, sir.

THE COURT: You see, Mr. Brande, you should not put it in his mouth.

BY MR. BRANDE:

Q While you were in the cell were you all alone or did the officers come there from time to time? A They did come down from time to time.

Q And you were in there two days and two nights, you say?

A Yes, sir.

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Q On the board? A Yes, sir.

RE-CROSS EXAMINATION BY MR. EDWARDS:

Q You were not put in a cell until after you were examined by Mr. Skinner, were you? Until after Mr. Skinner took your statement? A No, sir.

Q You were not arrested until after you had had your supper, were you? A Before I had my supper.

Q At eight o'clock you said you were arrested? A Well, I didn't have my supper.

Q You had not had your supper at eight o'clock? A No, sir.

Q Did you tell the officers you had not had your supper?

A I don't remember whether I did or not.

Q You usually have your supper about six or half past six, don't you, ordinarily? A I don't know.

Q Don't you know what time you usually have supper when you are living at home? A I didn't have no supper that night.

Q Don't you know what time you usually have your supper when you live at home? A Yes, sir.

Q What time do you usually have it? A Usually have it at 6.

Q And this night you had not been home to supper? A No, sir.

BY MR. BRANDE:

Q If you had had your supper that night, you got no breakfast next morning, did you? A No, sir.

Q Did you get no dinner next day? A No, sir.

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Q And you got no supper the next night? A No, sir.

Q They did not take you to any Magistrate's court, did they?

A No, sir.

Q When was the first time you were ever taken before a judge?

MR. EDWARDS: Objected to, not proper re-direct examination, - all gone over on direct examination.

THE COURT: Objection sustained.

MR. BRANDE: I think, your Honor, that the defense will rest.

THE COURT: Any rebuttal?

MR. EDWARDS: I shall call the stenographer to prove that statement of the defendant. He has denied making parts of it; and I shall call the officers.

THE COURT: The officers are here, do that now.

F E L I X B. Di M A R T I N I, recalled by the People in rebuttal, having been previously duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Did you, or any one in your presence at any time after you arrested this defendant, and before he saw Mr. Skinner, tell him what to say? A No, sir, positively not.

Q Did anybody, either you or any one in your presence, strike him during that time? A No, sir.

Q Will you describe the position in which they sat at the time his statement was taken, with the stenographer and the other persons in the room? A It is a little anteroom, which is used as the Detectives' record room, and there is a large table

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7h  
there.

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Q Similar to this table? A Well, not quite as long as that; almost; about as wide, and he was sitting at the corner where Mr. Brande ---

Q Who do you mean by "He"? A The defendant. The stenographer was alongside of him, and Mr. Skinner the other side. On and off, I think it was Captain Sullivan, he walked in and out of the room, while I remained towards the further end of the room. Captain Jones was over on this side and Inspector Chalane, he was behind the desk. Of course at times they would walk around and shange their positions.

Q Was anybody standing behind the defendant all the time?

A No, I wouldn't say that.

Q Did you hear any one during the time of his examination tell him what to say or make any suggestions to him? A No, sir, none of us was allowed to talk while Mr. Skinner was asking questions.

Q Did you see anybody poke him? A No, sir.

Q Was the defendant offered any food that night to your knowledge? A Why, at the time I arrested him I asked him if he would have a cup of coffee; he said no, he said he had something to eat, and he said he didn't feel like eating anyway, he just had his supper. And then after I asked him if he needed cigarettes. I think I bought him some cigarettes.

Q But did you see him the next day? A I did not, no.

Q He was left in the station house, in the cell there? A Yes,, sir.

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Q In the station house there have no kitchen, they do not provide any food whatever? A They send out for meals.

Q The station house is not an institution where food is provided for, is it? A If a prisoner is kept there, yes, sir.

Q If the prisoner has got money in his pocket and wants to send money and pay large tips to Messengers, he can send out for a sandwich? A If he wants to do that. If he wants choice food why then ---

Q But the City don't provide any, do they? A They provide in cases where a man is remanded.

Q Well, who remanded him to the station house? A Well, I didn't say he was remanded.

Q Well, this particular case who remanded him to the station house for two days? A I don't know that he was remanded outside of what Fogarty stated that he called up the coroner and stated to bring him down there Monday.

Q You don't know of any remanding by any official to the station house outside of what Detective Fogarty has testified to? Through your finecomb examination and investigation in this case you don't know that, the most important point in the case from the time the arrest took place? A I think the most important point would be the killing.

Q Oh, that is all you have got in your mind. A I think that is the most important point, and the man who done the killing.

Q And you told them about the story several times in there

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and then in the station house as to what you had charged --

A As to which charge? On what I bought?

Q Well, what Smitty told you? A Why ---

Q Here is what I want you to understand. Smitty told you his story about this killing, did he not? A He did tell me his story.

Q And you went through it with a fine comb? A Well, I investigated to the best of my ability.

Q And when you arrested this boy, you then told this boy what Smitty had told you? A I told him what Smitty had told me.

Q You kept on telling the defendant what Smitty had told you? A I didn't keep on telling him, no, sir, that is not so.

Q Who is the detective, McGrea -- is there such a detective? A Not that I know of, not by that name.

Q Anything near it? A No, not that I know of.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q And did you tell the defendant to tell the District Attorney the same story that Smitty told you? A No, sir.

BY MR. BRANDE:

Q But the defendant knew before he made the statement before Mr. Skinner what Smitty had told you because you had told the defendant -- well, no.

Q Well, what part didn't you tell him? A Well, I told him that Smitty said that he was there, did he want to say anything and did he want to tell the truth about it, and he stated -- oh, he says, "If I knew this was coming about" ---

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10 Q Now I ask you this. You said you did not tell him all. Now tell me what part you did not tell the defendant? A I am giving you the substance.

MR. EDWARDS: That is just what he is trying to do, if you give him a chance.

MR. BRANDE: I want an answer the same way that Mr. Edwards got one.

You said in answer to my question that you didn't tell the defendant all that Smitty had told you before he, the defendant, made his statement. Now please tell me what part of the statement made by Smitty to you you omitted to tell the defendant? Why, you can take this: I told him about that Smitty ---

What part did you omit?

BY THE COURT:

He does not want the part you did tell him, but he wants the part you omitted to tell him. A The part I omitted, I think I omitted the part about the taking of the money, that is one part that I remember not telling him about; and probably some more which I cannot recall.

Q Did you see anybody strike the defendant at 26th street, outside of Bellevue Hospital? A No, sir, absolutely not.

BY MR. EDWARDS:

Any one with him but you and Fogarty at that time?

A That was all, just Fogarty and myself.

BY MR. BRANDE:

Now you in court here when Mr. Edwards was cross

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examining the defendant out of a piece of paper? A I was.

Q That is supposed to be an alleged statement made by the defendant in your presence, is that right? A Yes, sir.

Do you remember now the words in that statement, and can you answer the questions as put by Mr. Edwards directly as they appear in that statement? A Well, I would have to hear the questions again, and then probably I would be able to answer them.

Q You have heard Mr. Edwards ask the defendant, for instance, "Did you say this in answer to this", and he put a question and the answer and the defendant said, "I don't remember," you heard that line of cross examination? A I heard something like that, yes, sir.

You were the one that was very interested? A The People of the State of New York were interested, I am only a public servant doing my duty.

Don't be so polished about it. A It is not polished now. I think I am doing my duty as a public servant.

Q Well, now, why don't you answer, please.

MR. EDWARDS: He will, if you will ask a question.

Q You were the one that was very interested as the arresting officer, were you? A No, sir.

Q You were not interested at all? A Not outside of doing my duty.

Q Well, that is interested. A Well, I am not interested personally. It is a public duty for me to do, as a police

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official it is my duty.

Q That is why you are interested? A Well, I am interested in it as far as police duty is concerned.

Q Well, that is what I mean. A Yes.

Q When you become interested in a case as a police officer, you go out and do somework? A I have no personal grievance against the defendant.

THE COURT: Please get down to what you want to ask him.

Q You were sitting in court, I said before, were you not? A Yes, sir.

Q What I want to ask you is this: have you heard Mr. Edwards cross examine the defendant, did you not? A I did hear some.

Q Did you see Mr. Edwards hold a pamphlet in his hand while he was cross examining the defendant.

Q You don't know what it was? A I can imagine what it was. I didn't see it.

J. M. JOHARTY, recalled by the People in re-  
tutal, having been previously duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Did you tell this defendant what to say to the District Attorney what to say the night he was arrested? A I told him to tell the truth.

Q Did you tell him to tell the same story Smitty had told? A No, sir.

Q Did you repeat Smitty's story to him? A No, sir, I did

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not.

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Q Did you repeat the stories of Smitty and Goldstein over and over again with DiMartini down at Headquarters? A No, sir.

Q Did anybody do that, that you saw? A No, sir.

Q Did you strike him with a billy or a blackjack? A No, and when he said that he lied. I didn't carry a billy at that time and I have not carried one since. I only carry a revolver.

Q Did you strike him with a blackjack? A No, sir, the only thing I carry is a revolver.

Q Did you strike him with your revolver? A No, sir, I did not.

Q Did you strike him with anything? A No, sir.

Q Did you see anybody pushing him around or striking him in the station house after you got him there? A I will just tell you the position he was in and show you?

Q Just tell me yes or no. A He sat at the end of the table with his back up against the wall. There was the end of the table, he sat just that way and there was a space of about three or four feet between this side of him and the wall (indicating right side); and Mr. Hamill sat like over there, and Mr. Skinner sat the other side of Hamill and over here was a desk and Inspector Chalané stood behind that desk over there. There was nobody near him.

Q Well, did anybody strike him and push him in the station house before he made his statement to the District Attorney?

A No, sir.

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Q Did you hear anybody threaten him? A No, sir.

Q Did you hear anybody tell him Smitty's story and tell him to say the same thing? A The only thing that was told to him as far as Smitty was concerned was that Smitty had told the story of what he did, that is only thing that was told him.

Q In other words Smitty had told about him and what he had done? A Yes, sir, Smitty had made that statement.

Q That was all that was told him in your presence, so far as you know? A Yes, sir, that's all.

Q Did you see him the next day, Sunday? A Sunday, yes, sir.

Q He was arrested Saturday night, wasn't he? A Yes, sir.

Q Do you know whether any food was offered to him Sunday? A I offered him food myself. I offered to go out and get him some.

Q What did he say? A He said no, he didn't want any; he appeared sick.

Q How often on Sunday did you offer him food? A Only once. What time of day was that? A If I am not mistaken Captain Jones left some money there with the doorman to buy him food if he wanted any.

Q And he would not take any? A He would not take any off me. He appeared to be sick.

Q And you went down with him to the Coroner's office on Monday morning? A Yes, sir.

CROSS EXAMINATION BY MR. BRANDE:

Q You say he appeared to be sick? A Yes.

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Q Did you offer him any medical treatment? A He didn't appear to be sick in that way, he appeared to be downhearted, now that is how he appeared to be.

Q I suppose he would not have been sick in that way, if I hadn't mentioned doctor? A If he needed medical attention it would have been the easiest thing in the world to get it for him.

Q Then you say that Di Martini told the defendant what smitty had told Di Martini? A When did I say that?

Do you say that now? A No, I didn't say that.

Q You heard Di Martini say so? A No, and Di Martini didn't say so.

Didn't you hear him on the stand, what he said on the stand?

It don't make any difference to me what Di Martini said on the stand. Di Martini didn't say that in my presence.

Oh, that is different? A Well, that's all.

Q If you were not there when Di Martini told him that, I do not want you to say that you were. You were not there. Then when Di Martini told the defendant what smitty had told him you were not there? A How am I going to answer that?

Yes or no, were you there? A I didn't hear anything like that said.

But didn't you just hear Officer Di Martini on the stand say that he didn't tell it all? A Suppose he did say that here, what do you want me to do when I was not there when he did say

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so? How do I know he said so.

BY MR. EDWARDS: Q You didn't hear him? A No, I didn't hear him. I was not so when he said so, if he did say so.

BY MR. BRANDE:

Q But you would say Di Martini is not saying that he didn't say it?

MR. EDWARDS: Oh, he has not said so.

Q How long was the boy in the station house before Mr. Skinner appeared upon the scene? A Not more than an hour and maybe-- well, I would say about an hour.

What station house was that, Headquarters or 67th street?

That was the 31st Precinct station house.

Where is that? A East 67th street, between Third and Lexington avenues.

Suppose officer, when the boy said he was struck by some one, he didn't say you, that is a physical impossibility?

Yes, he did say so here on the stand.

Not you? A Yes, he said me.

THE COURT: He said this Officer struck him in front of Bellevue Hospital.

I suppose that never takes place in the Police department?

MR. EDWARDS: I object to that, if it ever takes place in the Police department or not.

THE COURT: You can ask him if it ever takes place with him.

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MR. BRANDE: That's all.

THE WITNESS: I don't carry a billy and I haven't got one now. If I had one I would have it now.

THE COURT: Gentlemen of the Jury, do not form or express any opinion as to the guilt or innocence of this defendant, until the case is finally submitted to you. Kindly refrain from discussing the case with any one or allowing any one to discuss it with you. We will adjourn until 10:30 in the morning.

(ADJOURNED TO Wednesday, June 10th, 1914, at  
10:30 a. m.)

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New York, June 10th, 1914.

TRIAL RESUMED:

MR. EDWARDS: As I understand it, counsel for the defendant concedes that the portions read by me on the cross examination of the witness Goldstein from the two statements made by him to Deputy Assistant District Attorney Breckinridge, one on the 19th of May, 1913, and one on the 20th of April, 1914, were correctly read from a correct transcript of the stenographer's notes taken at that time; is that correct?

MR. BRANDE: Yes, sir.

MR. EDWARDS: And that such portions of those transcript as I read to the defendant Goldstein on his cross examination may be offered in evidence as proved in the usual formal manner.

MR. BRANDE: To facilitate matters, I think the Judge (Mr. Olmstead) and I have agreed that we might just as well consent to the admission in evidence of the full transcript so that we can have a chance of looking at it.

THE COURT: You mean ---

MR. BRANDE: Of the statements made by the defendant and Goldstein.

THE COURT: Well, now, you consent to the admission

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of the transcript of the statement made by Goldstein and  
by ---

MR. BRANDE: And the defendant, without calling any  
further witnesses, because we want to get a chance to look  
at it.

MR. EDWARDS: I am satisfied to do that, or to let  
counsel see them first if he prefers, and then determine  
afterwards.

THE COURT: Very well, offer them in evidence and  
have them marked.

MR. EDWARDS: I offer in evidence, first the state-  
ment made by Louis Goldstein to Deputy Assistant District  
Attorney Lucien S. Breckinridge, the minutes of which were  
taken by James Hamill, Stenographer, on May 19th, 1913,  
consisting of ten pages.

MR. BRANDE: No objection.

(Received in evidence and marked People's Exhibit 4.)

MR. EDWARDS: I now offer in evidence the second  
statement made by the witness Louis Goldstein on April 20th,  
1914, to Deputy Assistant District Attorney Breckinridge,  
the notes of which were taken by the present stenographer  
of the Homicide Bureau, Nathan Burchall, Jr.

(Received in evidence and marked People's Exhibit  
5.)

MR. EDWARDS: I offer in evidence People's Exhibit  
1, for identification, being the statement made by the

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defendant, Nicholas Achille, to deputy Assistant District Attorney Joseph A. Skinner, at the 31st Precinct Station House on Saturday, October 25th, 1913, the notes of which were taken by James Hamill, Stenographer.

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

The Exhibits are now handed to Mr. Brande by Mr. Edwards.

P E O P L E   R E S T .

MR. BRANDE: May it please the Court, I renew my motions on the same grounds.

Motion denied. Exception.

MR. BRANDE: I ask your Honor to take from the consideration of the jury the first charge in the indictment of murder in the first degree, upon the ground that the People have failed to make out a case.

Motion denied. Exception.

MR. BRANDE: I now ask the Court to permit me to offer in evidence all the pleadings in this case, so that I may avail myself of reading to the jury their contents.

Motion denied. Exception.

MR. BRANDE: I ask that the indictment in this particular case be offered in evidence and be permitted to be received on the ground that I may be permitted to allude to it.

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THE COURT: The indictment now on trial?

MR. BRANDE: Yes.

THE COURT: Motion granted.

MR. BRANDE: I ask you now to permit all the motion papers made on the previous indictment to be admitted in evidence.

Motion denied. Exception.

Counsel now close to the jury.

At the conclusion of Mr. Brande's summation the Court directs a recess till 1:15 p. m., first admonishing the jury in accordance with law.

After Recess, Trial Resumed.

Mr. Edwards now closes to the jury in behalf of the People.

The Court now charges the jury.

The jury now retire to deliberate upon a verdict.

The jury, after being locked up all night failed to agree, and were thereupon discharged by the Court from the further consideration of the case.

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