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

.....x  
The People of the State of New York,

-against-

SAMUEL J. KENNEDY:

: Before Hon.

: JOSEPH E. NEWBURGER

: and a Jury.

.....  
Indictment filed September 21st, 1898.

Indicted for MURDER OF THE FIRST DEGREE.

-----  
New York, May 6th, 1901.

APPEARANCES:

FOR THE PEOPLE:

Assistant District Attorneys James W. Osborne and  
Keyran J. O'Connor:

FOR THE DEFENDANT:

Messrs. Robert L. Moore and William W. Cantwell.

-----  
Peter P. McLoughlin,  
Official Stenographer.

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Opening Address for the People.

by Keyran J. O'Connor, Esq., Asst. Dist. Atty.

Mr. O'Connor: May it please the Court, and the gentlemen of the jury: The defendant at the bar, Samuel J. Kennedy, has been indicted by the grand jury of the county of New York for the crime of murder in the first degree, for the reasons as set forth in the indictment that on the 18th day of August, 1898, he, the said Samuel J. Kennedy, struck one Emeline C. Reynolds a blow upon the head with a leaden instrument, thereby causing the death of the said Emeline C. Reynolds.

This is a case of great importance to the People of the State of New York; it is one of vital interest to the defendant at the bar.

Great care has been exercised, both by the representatives of the prosecution and by the representatives of the defense, in selecting twelve men to try the issue raised by this indictment and the plea of the defendant. I know that you feel the great responsibility that has been imposed upon you. I know that each and every one of you accept the trust that has been reposed in you to well and truly try these issues, to do your duty in a fearless

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and courageous manner, without fear or favor towards the People on the one hand, and without either sympathy or prejudice to the defendant on the other.

I feel that the Court and the prosecution are to be congratulated upon the selection of this jury. I know that the defendant is to be congratulated upon the fact that he is represented by such able and eloquent counsel, men who have made for themselves an enviable reputation for the manner in which they have protected the interests of this defendant in the past.

The defendant is to be further congratulated, because the law of the land has said that the stamp of innocence shall be placed upon the brow of this defendant and shall remain with him up to the time that the minds of you twelve men shall unite as a unit and say otherwise. If you are satisfied beyond a reasonable doubt, after you have examined all the evidence in this case, then, sirs, it becomes your bounden duty to render a verdict of guilty against him, regardless of the consequences that may follow.

His Honor who sits upon the bench, represents the majesty of the law. You sirs, hold the scales

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of justice, and in the chief executive of this State is to be found mercy.

It is well for the defendant that he is being tried under the laws of the State of New York, for so solicitous is the State of New York that that stamp of innocence shall remain upon the brow of the defendant, that no inference shall be drawn against him and that he shall be comforted, the State of New York has taken a step in advance of some of her sister States in the administration of criminal justice, and instead of placing the defendant in a dock so that he might be held up to the public gaze, the law of this State has said, "Thou shalt sit beside thy counsel, thou shalt have the right to consult with and be advised by your counsel."

So that you see, gentlemen, the law of the State of New York is humane. It is just; all this is done for the comfort of the defendant and everything is done to protect the rights of the defendant.

The District Attorney stands here in a two-fold relation to this defendant. He is here under his oath of office to present evidence that will tend to establish the guilt of this defendant. At the

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same time he comes before you to see that no false accusation is made against this defendant, that no incompetent or illegal evidence is presented before you in order to bring about the conviction of this defendant.

So that, gentlemen, I shall only relate to you those facts which are necessary to substantiate the charge in the indictment and refer to those circumstances which are necessary and which go to make up the crime.

On the 16th day of August, in the year eighteen hundred and ninety-eight, the people in this community were startled by the news that was heralded whroughtout this great city, by the greatest medium of communication of the age, namely, the great press of this city, that a woman had been found dead in Room 84 of the Grand Fotel in the City of New York, and from the surroundings that a crime must have been committed. The questions asked one of another were, "Who was the victim and who was the murderer?" The answer to the first question was easy, because in Room 84 of the Grand Hotel lay the body of Emeline C. Reynolds. The answer to the second question could not be so easily given, because

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the man or the person who had committed that crime had done so in secrecy. He had done it with premeditation and deliberation. He had taken steps to conceal his identity. He had conceived a plan to defeat justice, if he could and to baffle the authorities if he could succeed in escaping.

These, gentlemen, will be some of the threads which you will be asked to take during this trial and say by your verdict whether or not the People have joined them together and established the guilt of this defendant.

Who was Emeline C. Reynolds? She was a young woman of about the age of twenty-two years at the time she met her death. She was the daughter of respectable parents who lived in Mount Vernon. She was penurious. She engaged in business as a book canvasser, and while engaged in that business she became acquainted with a man by the name of Maurice Mandham. This acquaintanship ripened into friendship, friendship into love, and she went to live with Mr. Mendham under the name of Mr. and Mrs. Reynolds. I desire to call your attention to the fact, gentlemen of the jury, notwithstanding what may have been the moral effect of this girl's

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career, that she was summoned before the Omnipotent God without warning to answer for her past. You twelve men are not called here to pass upon a question of morals. You are called here to pass upon a question of fact as to whether or not this girl, who was summarily summoned before her God, was killed by this defendant at the bar, Samuel J. Kennedy.

The defendant at the bar was the dentist of Maurice Mendham. Maurice Mendham introduced Emeline C. Reynolds to the defendant. The defendant had Emeline C. Reynolds as his patient, and I feel that it will be conceded by the counsel for the defendant that the defendant did know Emeline C. Reynolds in her lifetime.

Now, where do you find Emeline C. Reynolds on the 15th day of August, 1898? About the hour of twelve twelve o'clock on August 15th, 1898, Emeline C. Reynolds goes into the Grand Hotel at thirty-first street and Broadway and there registers upon the book of that hotel the name E. Maxwell and wife. She is assigned to Room 84, and a bellboy or hallboy by the name of Hawkins escorts her to that room. Within a short time thereafter she comes down to the

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dining room and has her lunch. When the check is given her for the amount which she has purchased, she sends her name and asks to have it charged.

The waiter goes to the hotel clerk and asks him about it. From some conversation had between the hotel clerk and the waiter, as to whether or not she was going to stay at the hotel, the waiter went back and looked for her. She was gone. That is one of the facts the impresses itself upon the mind and memory of the two men who waited upon her. And also upon other waiters in the hotel to look for this woman when she should return, in order to collect the amount of her purchases on that day.

When next do we find her and where? Between the hours of six and seven o'clock on the same evening of the 15th of August, we find Emeline C. Reynolds returning to the hotel. Does she come alone? No. This time she is accompanied by a man. They come in by the Thirty-first street entrance and go through the restaurant down to the elevator and go up into Room 84. The man was dressed in black, with a turn-down collar, a black tie, and he wore a straw hat. After they have been a short time in Room 84 there is a call from Room

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84 to send a boy upstairs. The boy goes up into Room 84 and there he meets Emeline C. Reynolds and a man. A bottle of wine is ordered. The boy is gone about ten minutes and he returns with the bottle of wine. He speaks to the man who is in Room 84 with Emeline Reynolds at this time. He asks that man if he will open the bottle. The man says, No; leave the corkscrew here," and the boy says, "You don't need the corkscrew to open a bottle of wine." This man gives up two dollars and tells him to keep the change. Mark you, this man who is in the room has a conversation with the boy who delivers the wine and pays him the sum of two dollars and tells him to keep the change, and how that did impress itself upon that boy's mind, the fact that he was getting a quarter as a tip, and he was going to be on the lookout for that man every time he saw him that night, because he believed he was a good customer. Who was that man? The man or the boy who delivered that bottle of wine will testify as the People claim, that that man who was in Room 84 on that night with Emeline Reynolds and who received the bottle of wine and paid him two dollars and with whom he had the conversation which I

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have related, was the defendant at the bar, Samuel J. Kennedy.

Where next do we find her -- leaving the hotel about the hour of seven o'clock, the defendant Sam Samuel J. Kennedy and the deceased Emeline C. Reynolds are seen going out of the hotel. The waiters, expecting that they are going to take dinner, pull out the chairs. The two pass on and go out into the streets of New York. Gone.

When and where next do we find them? At about the hour of 11:55 on the night of August 14th they are seen returning to this hotel. Who returns? Emeline C. Reynolds, the deceased, and the defendant at the bar. How do we know? Because they are seen coming through the entrance, entering in into the elevator and going up to the fourth floor, where room 84 was. Lenehan, the elevator boy, will testify to the fact that the man who was with Emeline C. Reynolds on that night was a man who was dressed in black, with a turndown collar and with a black tie and that he wore a straw hat, and upon the small finger of the right hand he wore a gold ring. Lenehan said to the persons who were in the elevator at that time, "What floor?" and the man said,

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"Fourth floor." When the fourth floor was reached, Emeline Reynolds and the defendant stepped out from the elevator and went down the hall to Room 84.

One of the hallboys in that hotel that night saw a man enter into Room Number 84.

When the defendant Samuel J. Kennedy was arrested, upon the small finger of the right hand was found a gold ring. That served as an instance which the

People will ask you to take into consideration.

Room 84 is reached. The door is closed. That was the last time that Emeline C. Reynolds ever walked God's earth, for between the hours of midnight on the 15th of August and the following morning of the 16th day of August the soul of Dolly Reynolds was wafted before the judgement seat of God. Her body left as mute evidence of the one of the most dastardly and felonious crimes that was ever committed in this county, for while all New York was sleeping peacefully while the inhabitants of that hotel that night were sleeping the sleep of peace, there was being enacted a dastardly tragedy in that hotel, and the question you will ask of the prosecution is, whom do you say committed this crime and what evidence have you that the person who committed that crime is the man who is

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here on trial? We will say that the man who committed that crime is the man whose wife was at Salem, Massachusetts, on the 15th of August. We say to you that the man who committed that crime was the man whose father and mother were at New Drop, Staten Island Island, on that night. We charge that that man is Samuel J. Kennedy, the defendant at the bar.

Where do we next find Kennedy, the defendant at the bar? We find him coming down the marble steps of the Grand Hotel, actually going down, only recognized by the patter of his feet upon the stairs. Why did he go down the stairs of the Grand Hotel on that night? Why did he not go down in the elevator, the same as he went up? What motive had he for going down those stairs? Was it for the purposed of avoidinging people, was it for the purpose of avoiding those who might have seen him come in and who might have seen him go out? But Lenehan and Gregory, the night clerk, are at the desk of the Grand Hotel. The Thirty-first street entrance having been closed at one o'clock it is necessary for this defendant in order to pass out of that hotel on the Broadway side to pass the hotel clerk's desk, and Lenehan saw a man pass there who in all respects resembled the

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man who went up in the elevator with him. Gregory recognized the man who went into that hotel on that morning at the defendant at the bar, Samuel J. Kennedy. Gentlemen of the jury, these are circumstances which you have a right to ask to have satisfactorily answered for yourselves.

Now, the next step in this tragedy. About the hour of nine o'clock on the morning of the 16th of August, when the maid who was employed in that hotel went up to that floor to make up the rooms for the day, she went to room 84. She tried to open the door; the door kind of stuck for a time, and she called a man to assist her. They opened the door, and upon the floor of that room was found the body of Emeline C. Reynolds. The door was immediately locked. The housekeeper was sent for, the proprietor was sent for. They came to that room, they looked at the body. The door was locked and the police were notified. Whom else should be notified? Not the stragglers along the byways and highways should be called in. Who else should have been notified to take care of this affair? The paid servants of the people, whom the taxpayers pay for doing their duty. The police of this county should have been called in,

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and were called in to take charge of this matter. It was no compliment to the police to call them in, they were in duty bound to respond and to ferret out this crime. When the police arrived, under the command of the Captain Price, they took charge of the room, and they began to ferret out and find out whether a crime was committed and to discover the murderer if they could. The first thing they found alongside of the body of Emeline C. Reynolds is a leaden instrument with a rod inserted in the center covered at the end by bicycle tape with a crook handle upon it. Captain Price takes it and holds it it as a link in the chain of evidence. He puts his men to work upon the case and sends them hither and thither in order to find out where he can get some information upon this question. Sergeant Kerr was in the room at the time. While searching around he finds bits of paper torn in small pieces near the window of Room 84, and taking those bits of paper and placing them together and pasting them upon a sheet of paper, there is seen the words, "E. Maxwell and wife, Grand Hotel," and upon the reverse side, printed in script are the words, "Phillips magnesia of milk, 18, 9," After the police have

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had charge of the room in which the body lay, the next step was to notify the Coroner. The Coroner came and with him was his Deputy Coroner, a physician, Dr. O'Hanlon, but in the meantime, while they are waiting for the Coroner and his physician to arrive there, search is made and they find in the room a satchel and a pocketbook. Upon examining the satchel, they find that it has been cut open with a knife or some sharp instrument. That is another link for the police to join together in order to ferret out this crime. When the Coroner does arrive with his physician the body of Emeline C. Reynolds is taken from the floor and placed upon a table. Dr. O'Hanlon then proceeds to cut the clothing, and while cutting he finds between the chemise and the corsets eight dollars and some odd cents in money and a piece of paper, a check, which in substance, I believe, is as follows: "August 15th, 1898. Pay to the order of Emma Reynolds thirteen thousand dollars," with a name signed to it and endorsed upon the back of that paper, is the name of Samuel J. Kennedy. The People claim in this case -- They do not care when or where that check or paper was uttered, they do not care when or where the check

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was given, the People claim that the fact that the name of Samuel J. Kennedy appears upon the back of that check, establishes the fact that Samuel J. Kennedy knew something about the transaction, was aware of the fact that the check was good, or this name Samuel J. Kennedy would not be upon the back of that check.

What is the next step taken in this case? Captain Price immediately sends for Captain McClusky of the Detective Bureau<sup>u</sup>, in accordance with the rules of the Department, to have the detective bureau take charge of this case. Captain Mc Clusky arrives upon the scene with his officers and the check being discovered the first thing they do is to despatch a man to the Garfield National Bank to find out if any person whose name was signed to that check had an account in that bank. From the information received there, the officer proceeded to the office of Dr. Samuel J. Kennedy, the defendant at the bar. Officer Davis shows him the check and asks him if he ever saw it before. He said no. He asked him if he knew the name of the Payee, Emma Reynolds, and he says no. The officer leaves and reports back to Captain McClusky. A consultation is held among the

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officers. Sergeant Carey then is sent with officer Davis back to the defendant's office. Carey meets the defendant and says to him, "You know Emeline Reynolds, don't you?" He says, "No." "Why, Doctor," says Carey, "she is a patient of yours." He said, "Oh, is that the one you mean?" and Carey said, "Yes," and he said, "I know her." "When was the last time you saw her?" "Thursday or Friday of that week."

The defendant then is taken to the Thirtieth street station and placed under arrest. From the time that this defendant was placed under arrest, he has told several conflicting and contradictory stories as to where he was on the 15th of August up to twelve o'clock midnight and where he was from midnight of August 15th till the morning of the 16th day of August, the time of his arrest.

What do the police next do? They go back to his office. They make a search in his office and find a checkbook. Such a checkbook as had been used by the Garfield National bank, but which had been out of use for about two or three years, and in that check book upon the stubs is the writing of the defendant. And the checks, as far as color and en-

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graving are concerned, correspond in every particular to the check which was found upon the person of Emeline C. Reynolds and upon which the name Samuel J. Kennedy was endorsed. The People also made a further search, at least, the officers did, and in his office was found a pad made up and stamped with the name "Phillips magnesia milk," which in all respects, in shape, in color and in size of type corresponded to the paper which was found in Room 84 of the Grand Hotel, upon which was written the words "E. Maxwell and wife, Grand Hotel." All these circumstances coming together so quickly upon the police, they wished to ascertain further, and they went in search of more information. They went in search of a straw hat which the defendant is claimed to have worn upon that day and they went in search of a bicycle cap which the defendant is claimed to have bought on that day at the time that he purchased the straw hat, and what do they find? In a closet of the room -- in the room of the office of this defendant is found a bicycle cap, but do they find the straw hat? The defendant claims he never wore a straw hat in his life. He is identified as having been seen with a straw hat on on that day, but

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no, the straw hat has disappeared. The straw hat has never been satisfactorily accounted for from that day up to this. The evidence will show here that the defendant did purchase a straw hat on the 15th of August, at the same time that he purchased a bicycle cap. Oh Lord, oh Lord, throw light upon this, let the light shine out so that we may know whether or not this defendant is guilty. Oh Lord, throw light in order that we may be able to discover that straw hat. Never shall the People be satisfied until we have received some information as to where that straw hat is. We shall cry out "Straw hat" until the Judgement shall arrive.

The police then proceed down to the home of the defendant at Staten Island. They make a search of his house, and in the cellar of that house they find an iron rod. The People will ask you to look at this rod. They will ask you to take this iron rod. They will ask you to take this iron rod and compare it with the iron rod that was inserted inside of the leaden instrument. They will ask you to use your own common sense and your judgement when comparing the nicks that are on the end of the rod found in the cellar and the nicks found on the rod inserted inside

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of the lead casing. Not what I will say must in any way sway you. Let the evidence speak for itself as it comes from the living witnesses upon the stand and let the silent witnesses in this case speak for themselves. Be not prejudiced against the defendant by what I say, but let the evidence speak for itself, and we will ask you to carefully examine the instruments as they are presented to you in this case.

How then do we know that this defendant bought a straw hat on the 15th day of August, 1898? You must ask these questions of the prosecution. You must bind us right down to the very point, in order to convince yourselves upon every question that is presented to you. Ask the prosecution, "How do you know that this defendant bought a straw hat on the 15th of August, 1898, "because the man who went into the store of Smith, Gray & Company said to the salesman at the door, "Why, don't you know me? I am Kennedy, the son of the dentist who kept the place on Sixth Avenue ." The clerk or salesman said, "Yes, I remember you." The People will show you that clerk was working on Sixth avenue in the hat business at a time when Kennedy kept an office on Sixth avenue and when he was a little boy running around

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there. And however premeditated and deliberate the crime may be, this was one of the stitches that the defendant dropped as he went along. He notified the clerk who was opposite the Grand Hotel that he, Kennedy, was buying a straw hat with a bicycle cap on the 15th of August, 1898. The People will produce the bicycle cap, but where is the straw hat? What we want is the straw hat, and it must be produced.

The police then go further. The defendant is stripped, and upon the drawers which this defendant wore on that day are found three black marks right at the waist band. They were new drawers. The defendant was amorously inclined on the 15th day of August and he changed his underclothes. He bought a new suit of underclothes. On the 15th day of August he bought a straw hat and a bicycle cap. The People found the old suit of underclothes in his office. Thus the change on the 15th day of August. We will ask you to look at this underclothes and say for yourselves whether or not this defendant, having this instrument, carried it on his person on the 15th day of August and that it left these marks upon his clothing. Another silent witness that the

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defendant was going to kill or murder, which will speak for itself, but not like the straw hat does. The People cry out, "Give us the straw hat, as we gave you the drawers that he bought and the drawers that he used." Gentlemen, from the question asked you here by the counsel for the defense, their defense will be what is known in law as an alibi, the equal of any defense. All defenses are equal under the eyes of the law, if proven to your satisfaction. No defense is better than another. The meaning of the word "alibi" is elsewhere. The defense by that evidence intend to establish the fact that the defendant was at some other place at the time that we claim he was at the Grand Hotel with Emeline C. Reynolds. Gentlemen of the jury, that defense has been characterized time and again by learned judges and by the highest courts as a dangerous defense. You must scrutinize carefully the source from whence it comes. Look at the witnesses as they appear upon the stand, who they are and what they are.

MR. MOORE: If your Honor please, this is not in the line of an opening, and we object to it.

THE COURT: Objection sustained.

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MR. O'CONNOR: Apply the same rules to those witnesses as you would to any other witness in the case.

The People in this case can not only rely upon positive and direct testimony, but also upon circumstantial evidence. Each and every one of you was asked the question if you had changed your opinion as to the acceptance of the law of the land upon circumstantial evidence, and like true, honest American citizens you have said you have not changed your opinion, because you well know that every act of life is done circumstantially as you walk along the highway when you leave your houses.

What is direct testimony? It is where a person swears to seeing a particular act done, as for instance, in a murder case a witness swears that he saw a blow struck, saw the person upon whom it was inflicted, and the person dying from the blow. The main subject of inquiry here is, is the witness who is testifying to the fact telling the truth?

Now, in circumstantial testimony, you have the fact proven and the fact proved inferentially from the principal fact given in issue, and it is for you to say when that is done if you are satisfied beyond a reasonable doubt that it has been established --- then it becomes your bounden duty to render a verdict

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of guilty.

Now, why is it that the law of the land says that you should resort to circumstantial evidence? Because in the words of a great and learned Judge, "It is in vain that we attempt to detect or punish crime without resorting to circumstantial evidence. Crime shuns the light of day. It seeks darkness, it courts secrecy; it endeavors to escape detection. The assassin moves stealthily upon his sleeping or unsuspecting victim. He does not call a witness to see him strike the fatal blow. He endeavors to obliterate all traces of his crime. He seeks to cover up his tracks. Does the thief call a witness to see him steal? The incendiary one to see him apply the torch? You must resort to circumstantial evidence or crime must go unpunished. If you wait for an eye-witness for every crime; if you expect the felon to call one to witness his criminality, you at once grant impunity to crime."

Now, gentlemen, some of the questions that you will be asked to answer in this case are as follows:

Did the defendant know Emeline C. Reynolds?

Did he write the words "E. Maxwell and wife" on the back of the Phillips Magnesia Prescription pad, which was found in Room 84 of the Grand Hotel on

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August 15th, 1898, where the dead body of Emeline C. Reynolds lay?

Was the defendant Kennedy seen with Emeline Reynolds on August 15th at the Grand Hotel, between 6 and 7 o'clock in the evening, and also about midnight of August 15th?

Was he also seen leaving the hotel on the early morning of August 16th?

Did he buy a straw hat at Smith-Gray's on August 15th, and for what purpose did he buy it?

Did he have a leaden instrument in his possession on August 15th, and do the marks on his drawers indicate that he carried it on that day?

Did he give the thirteen thousand dollar check which was found upon the dead body of Emeline C. Reynolds, and upon which the name Samuel J. Kennedy is endorsed, to her, the said Emeline C. Reynolds?

Did he lure her to Room 84 in the Grand Hotel, for the purpose of getting the thirteen thousand dollar check from her in order to save himself from disgrace and humiliation, and failing in his endeavor to get it from her quietly, did he resort to the brutal crime of murder?

Did he make false statements to the police as to

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his whereabouts on the night of August 15th of this year?

Gentlemen, if you answer those questions in the affirmative, then we will ask you to eradicate from the brow of Samuel J. Kennedy the word "Innocence" and place thereon the word "Guilty". Let your verdict ring out in words of warning to those who attempt to commit brutal and villainous crimes in the small hours of the night; who seek places of seclusion in the hotels of this City. If they do they must not leave prescription pads behind them; if they do they must not leave instruments behind them; if they do they must not leave their visiting card behind them with their name upon it. If they do they must burn their bridges as they pass over them, that no threads must be left so that they can be picked up and joined together.

Gentlemen of the Jury, if you are satisfied beyond a reasonable doubt as to the guilt of the defendant, the People will ask you to render a just verdict of guilty against this defendant, Samuel J. Kennedy.

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The Court admonished the jury in accordance with the provisions of Section 415 of the Code of Criminal Procedure, and took a recess until 2 o'clock.

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AFTER RECESS:

MARY HIGGINS, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION,

BY MR. OSBORNE:

Q Miss Higgins, where do you live? A. 19th Street.

Q. What is the number? A. 266.

Q. 266? A. Yes Sir.

Q Is it west or east? A West.

Q 266 West 19th Street? A Yes Sir.

Q In the City of New York? A Yes Sir.

Q How long have you lived ther Miss Higgins? A /About eight months off and on; I have not lived there altogether.

Q Do you live there with your mother? A Nos Sir.

Q With whom do you reside? I have just got a room there.

Q You have a room there? A Yes Sir.

Q Now, were you ever employed in the Grand Hotel in the City of New York? A Yes Sir.

Q How long were you employed in the Grand Hotel altogether?

A Just about eight months.

Q What was your position there? Chambermaid.

Q You were a chambermaid in the Grand Hotel? A. Yes Sir.

Q You remember, do you not, the death of Emeline C. Reynolds?

A Yes Sir.

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Q Were you employed in the Grand Hotel at that time?

A Yes Sir.

Q You remember the morning of the 16th of August, 1898 do you not, going to Room 84? A Yes Sir.

Q Will you just tell the jury in your own way, and remember the last man is just as much interested in the case as the foreman -- tell him about it; what you did and what you saw when you went there? A I went to Room 84 about half-past nine.

Q You went to Room 84 about half-past nine? Yes Sir.

THE COURT: One moment, Raise your voice, so that the last gentlemen in the jurybox can hear you.

THE WITNESS: Yes sir.

A (continuing) I went to Room 84 about half-past nine, and I put the key in the door and the key did not turn in the door. I just pushed the door in and I looked around the room, and on the table was a champagne bottle with two glasses; the shades were pulled down, and on the floor was the body of this woman, lying between the fireplace and the table.

Q Between where? A The fireplace and the table.

Q The table? A Yes sir.

Q. What else? Did you see anything else? A No Sir; I didn't see anything else.

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Q Did you look on the floor? A Yes Sir.

Q Well, did you see anything on the floor? A Yes Sir.

Q What did you see? A A piece of lead pipe.

Q A piece of lead pipe? A Yes Sir.

Q Was it anything like this ( showing the witness "People's" Exhibit 17")? A Yes Sir.

Q Was it something similar to this? A Yes Sir.

MR. OSBORNE: This is "People's Exhibit 17 for identification." I would like if I can to preserve the stenographic numbers of the other trial, as I go along.

Q Was that champagne bottle empty or full, Miss Higgins?

A Empty.

Q Empty? A Yes sir.

Q And two glasses? A Yes sir.

Q You did not have to unlock the door, did you? You just pushed the door?

MR. MOORE: Objected to.

THE COURT: You must not lead.

MR. OSBORNE: I did not intend to lead. I will draw the question entirely.

Q State again, if you please, what you did with the door?

A I put the key in the door and the key did not turn, and then I pushed the door in very easy, just pushed it in, and

I looked around the room, and the shades were---

Q Then was the door locked or unlocked? A Unlocked.

Q That was at half past nine o'clock in the morning? A Yes sir.

Q Now, did anybody go with you, Miss Higgins, at that time?

A Yes sir.

Q Who was it? A Samuel Bryers.

Q What was his position? A Houseman.

Q Houseman? A Yes sir.

Q Now, Miss Higgins, had you seen the occupant of that room at any time before that? A Yes sir.

Q When was that? A About one o'clock in the afternoon.

Q Of the day before? A Yes sir.

Q That was on the 15th of August? A Yes sir.

Q At that time what was she doing? A She was standing at Room 84 talking to a colored man.

Q Who was the colored man? A Well, he is the head bellman.

Q The head bellman? A Yes sir.

Q You found out his name since, did you, Miss Higgins?

A Yes sir.

Q What is his name? A Hawkins.

Q Is that him (Pointing to the witness)? A Yes sir.

Q Hawkins? A Yes sir.

(Hawkins stands up in Court and is identified.)

Q He was talking to her in Room 84, is that right? A Yes sir.

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- Q Did you see her at any time after that up to the time you saw her dead body on the floor? A No sir.
- Q After you saw her dead body on the floor, what did you do, you and your acquaintance Mr. Bryers? A We told the housekeeper.
- Q You told the housekeeper? A Yes sir.
- Q Did she come instantly, the housekeeper? A Yes sir.
- Q What did you do to the room then? A We locked the door.
- Q Locked the door? A Yes sir.
- Q Was there any report made to anybody else, that you know of? A Yes sir.
- Q Mr. Leland, was it? A Yes sir.
- Q The proprietor of the hotel? A Yes sir.
- Q Is that all you know about it, Miss Higgins? A Yes sir,, that is all.
- Q Would you think you could recognize a photograph of that woman? A Yes sir.
- Q You recognize this photograph? A Yes sir.

MR. MOORE: I might say right here, if your Honor please, that for the purpose of expediting the case we do not raise any question about it being Emeline C. Reynolds whose body was in the room. Any proof that would be sufficient to establish that fact will not be controverted in any way.

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MR OSBORNE: Then I will offer this photograph in evidence.

(The photograph referred to was marked in evidence as "People's Exhibit A. May 14th, 1901").

C R O S S E X A M I N T I O N :

BY MR. MOORE:

Q When you first saw the deceased she was talking to the head bellman? A Yes sir.

Q And that was about four o'clock in the afternoon, was it?

A No sir, it was about ten minutes after one.

Q About how long was she talking with the bellman at that time? A It must have been about fifteen minutes.

Q And where were they? A Room 84, at the door.

Q Now, were you employed on that floor exclusively? A Yes sir.

Q You had occasion to know the surroundings of Room 84, did you? A Yes sir.

Q Was that an outer or inner room? A I beg your pardon.

Q Did that front on the outside wall----I will ask you this: Did it front on 31st Street? A 31st Street, yes sir.

Q Were there any windows in the room? A Yes sir.

Q How many? A Two.

Q Did either one of those windows lead to the fire escape? A Yes sir.

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Q. And that fire escape led from Room 84 to the ground, did it not? A Yes sir.

Q Now, was there any way of communication with Room 84 and the room adjoining it, or I will ask you first, what were the numbers of the rooms that adjoined 84? A 83 and 85.

Q Was there any communication between Room 84 and Room 83? A Yes sir.

Q Without going into the corridor or hall? A Yes yes sir, there was direct communication.

Q Between the two rooms? A Yes Sir, there was a door, but that was locked.

Q Are you sure the door was locked? A Yes sir.

Q How was it locked? A Well, bolted on each side; there was a bolt on each side, one on the 83 side and one on the 84 side.

Q Was there a bolt on each side? A Yes sir.

Q Are you sure of that, Mary? A Yes sir.

Q Was not there a hook on the side and a bolt on the other? A Well---.

Q A hook and eye? A Yes sir, you could not open 84 without going into room 84 and opening it.

Q What? A You could not open the room without going into 84 room; you couldn't open it if you didn't go in there.

Q Do you know which way the door opened between Room 83 and

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CASE 22361

Room 84, that is, did it open into Room 84 or open into Room 83? A It opened into Room 83.

Q Did you know upon which side the hook and eye was? A The hook was on the 83 side.

Q Are you sure of that? A Yes sir --- well, I am not exactly sure; it is sometime ago since I have been there.

Q Did not the hook and eye fasten the door when drawn together upon the side, the opposite from the way it swung?

A Yes sir.

Now recollect, that was not the hook and eye on the 84 side?

A No sir --- well, I can't exactly say whether it was a bolt or a hook and eye; I didn't take any notice.

Q Was there any communication between Room 84 and Room 85?

A No sir.

Q Either I mean? A No sir just going to the door.

Q Positive? A Yes sir, there was a hook on each side.

Q What is that? A There was a hook on each side.

Q Was there any communication, the doorway leading from room 84 and 85? A Yes sir.

Q There was another door leading between Room 84 and 85,?

A Yes sir.

Q So that there was a communication between Rooms 83, 84 and 85, was there not? A Yes sir.

Q This fire escape led from the window in Room 84, and also

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led from the window in Room 83, did it not? A I never looked at the fire escape there.

Q Well, don't you know that there was a long iron railing passing in front of the two windows? A Yes sir.

Q And did not that railing extend to the window in Room 83?

A I guess it did, I don't know.

Q Now, between Room 84 and 85 there were two doors, were there?

A Yes sir.

Q. A little space of hallway between? A In Room 83 there was a little clothes closet.

Q. Were there also two doors between Room 83 and Room 84?

A Well no sir; there was only just one door.

Q Between Room 84 and 85 there were two doors, were there not?

A No sir; between 83 and 84 there were two doors.

Q Did not you just say there was only one door? You are mistaken.

Get it right. A 85 there was only one door.

Q Which side if there were two doors. A 83 and 84.

Q Between those two rooms there were two doors? A Yes sir.

Q And a hallway between? A Yes sir.

Q And that space of hallway was about how large? A Oh, it was only about that width there (indication).

Q That is about the width of the door, or about four feet long?

A Yes sir.

Q Now, were both doors fastened in the same manner, bolt on

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CASE 100

one side and a hook on the other? A Yes sir.

Q When you first went in to examine---when you first went into the room, Mary, and found the body lying upon the floor, you immediately left, did you not? A Yes sir.

Q At that time you did not observe, did you, whether the doors were fastened or not, leading to it? A No sir.

Q When you did observe it---did you observe it again at any time after that? A No sir.

Q So that you do not know whether the doors leading from Room 83 and 84 were fastened or not, do you? A No sir, I don't.

Q You do not know whether the doors leading from 84 into 85 were fastened or not? A No sir.

Q Mary, you were sworn before the Coroner's jury, were you not? A Yes sir.

Q Before the Coroner's jury, did you swear that when you went there the door was locked and you put your key into the lock and turned it? A What door?

Q Leading into Room 85? A. No sir, I did not.

Q Are you sure of that? A Yes sir.

Q Do you recall whether the question as asked you before the coroner as the whether you did? Yes sir.

Q. Unlocked the door? A Yes sir, it was asked.

Q Do you recall the answer? A Yes sir, I said I put the

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key in the door and the key did not turn around, and I pushed the door in.

Q Did you say anything before the Coroner about finding the key for the door on the inside of the Room? A Yes sir.

Q Did you find it there? A No sir, I didn't find it.

Q Did anybody find it there? A Yes sir.

Q That you know of? A Yes sir.

Q Who? A Mr. Leland.

Q Mr. Leland? A Yes sir.

Q That was after you had discovered the body and had gone to notify Mr. Leland, was it? A Yes sir.

Q When you came back, did Mr. Leland find the key to Room 84 on the carpet in the centre of Room 84? A I didn't see Mr. Leland find the key. He showed me the key and told me he just fitted the key.

MR. MOORE: That would hardly do.

THE COURT: She states she did not see him find it.

THE WITNESS: I did not see him find it.

Q Were you present in the room when Mr. Leland picked up the key? A No sir.

Q Now that morning before you went into the room, how long had you been on duty? A Since about a quarter of eight.

Q And this was about half past nine? A Yes sir.

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- Q When did you go off duty the night before? A Six o'clock.
- Q During that time between a quarter of eight and half-past nine, did you see any person go into or come out of Room 84? A No sir.

R E - D I R E C T   E X A M I N A T I O N

BY MR. OSBORNE:

- Q Miss Higgins, I did not apprehend exactly what you meant when you went into Room 84---did you notice the doors between Room 84 and 85 -- whether they were bolted or not? A No sir.
- Q You did not notice? A No sir.
- Q And between 83, did you notice whether they were bolted or not? A No sir, I did not go into them.
- Q Did you notice at any time? No sir.
- Q When did you notice? A I noticed Saturday evening that they were all right, and Sunday.
- Q Sunday? A Yes sir, the room was not taken until Monday.
- Q The room was not taken until Monday? No Sir.
- Q So the last time you noticed they were bolted between the two rooms? A Yes sir.
- Q Now with regard to the windows, did you notice whether or not the windows were down or up when you went in there? A All the windows were down.

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Q The windows were down? A Yes sir.

Q How about the shades? A Well, when I went in on August 16th the shades were pulled down.

Q I did not get that? A When I went in on August 16th the shades were pulled down.

Q The shades were down or the windows were down, both?  
A Yes sir.

Q Did you notice whether the windows were bolted or not?  
A No sir.

Q Did you notice at any time whether they were bolted or not?  
A No sir.

Q Now, did you hear any noise come from Room 84 at any time later one o'clock on August 15th? A Yes sir.

Q What did you hear? A About half past five or a quarter of six I heard somebody speaking in the room.

Q Somebody talking in the room? A Yes sir.

Q You did not see who it was and do not know who it was?  
A No sir.

Q That is all you know? A Yes sir, that is all I know.

BY MR. MOORE:

Q I understand that you never saw the person that was with the deceased that day? A No sir.

Q Never at any time? A No sir.

MR. OSBORNE:

Q You did not see the man that was with the woman? A No sir.

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BY MR. MOORE:

Q About the windows, do you know whether the windows were fastened down or not? A No sir.

Q This was a warm night, was it not? A Yes sir.

Q Are you sure, Mary, that the windows leading to that fire escape was down? A I didn't get only just inside of the door, I didn't only get inside of the door; I didn't go near the windows at all.

Q You do not know whether the window leading to the fire escape was up or down? A No Sir.

BY THE COURT:

Q But you do know that the shades were down? A Yes sir.

Q You saw that? A Yes sir.

J A M E S H A W K I N S? a witness called on behalf of the People, being duly sworn testified as follows:

D I R E C T E X A M I N A T I O N

BY MR. OSBORNE.

Q. Mr. Hawkins what is your business? A Hallman.

Q Hallman? A Yes sir, at the Grand hotel.

Q At the Grand Hotel? A Yes sir.

Q In the City of New York? A Yes sir.

Q How long have you been bellman? A A little over five years.

Q Mr. Hawkins, do you recollect the 15th of August, 1898,

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anything occurring in that hotel -- do you remember the date at all? A Yes sir.

Q Now, do you recollect the 16th of August? A Yes sir.

Q Now did you go to Room 84 at all on the 15th of August?

A I did.

Q Now, you state all you know about this thing in your own way, and talk loud enough, so that the twelfth juror can hear you. A Between twelve and one o'clock on the

15th there came a lady in, and the clerk called me up to show her to Room 84, and I showed her up, and I did not see her any more.

Q Do not drop your voice. A I showed her up to the room; I did not see her any more afterwards.

Q Now, about half-past twelve the clerk called you to show a lady to her room? A Yes sir, between half-past twelve and one o'clock.

Q Between half-past twelve and one o'clock? A Yes sir.

Q Did you take the lady anywhere? A I showed her up to Room 84, which is on the fourth floor.

Q Up to Room 84? A Yes sir.

Q Did you ever see her after that? A No Sir.

Q Go on now. A That's all I know.

Q That is all you know about it? A Yes sir.

Q Did you see a man in there at all? A I did not.

Q Did you go to Room 84 at any time after that on the 15th of

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August? A No sir.

Q Did you see the woman register? A I saw her at the desk.

Q At the clerk's desk? A Yes sir.

Q Did you see her with a pen in her hand? A Yes sir.

Q Did you see her in the act of writing on the book? Yes sir.

Q So you saw a woman take a pen and write on the register,  
and the clerk called you up --- Did he give you a key?

A Yes sir, he gave me a key.

Q And to what room? A Room 84.

Q You and the lady went up to Room 84? A Yes sir.

Q Did you take the elevator? A Yes sir, we took the elevator.

Q What floor is Room 84 on? A On the fourth floor.

Q The fourth floor? A Yes sir.

Q It was between half past twelve and one o'clock in the  
day time? A In the afternoon.

Q In the afternoon of August 15th, 1898? A Yes sir.

Q That is all you know about the case? A Yes sir.

Q Do you think you would be able to recognize a photograph of  
the woman? A I could not.

Q You do not think you could? A No sir.

Q Well, describe the girl as nearly as you can. A. Well, I  
don't think I could give any description of her; I didn't  
notice her that much.

MR. MOORE: No cross examination

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SAMUEL L BYERS, a witness called on behalf of the People, being duly sworn testified as follows:

DIRECT EXAMINATION:

BY MR. OSBORNE:

- Q Mr. Byers, what is your business? A I am a furniture man working at furniture in the Grand Hotel, moving furniture and laying carpets.
- Q Taking charge of the furniture and moving it, and laying carpets? A Yes sir.
- Q How many years have you been in that business? A Eight years next June, in the Grand Hotel.
- Q Were you engaged in that business on the 16th of August, 1898, in the Grand Hotel I was.
- Q Do you recollect going to Room 84 with Mary Higgins?
- A I do.
- Q. Now, you tell all that you saw from the minute you got there, stating the hour? A Well, on August 16th I went to Room 84.
- Q What time? A I went to Room 84 about half-past nine, and I asked Mary Higgins to open the door and leave me in the room. She put the key in the door, but the door was not locked. I went into the room; Mary went in ahead of me, and I saw the form of a lady lying on the floor, and Mary asked me --- she said to me---

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Q Never mind what Mary said. A Well, I thought first that the lady was drunk, and then I saw-----.

Q Do not tell us as to your thoughts.

THE COURT: Strike it out.

Q Tell us what you saw, and what you did. A I found the lady on the floor, or saw her on the floor. I felt her hand and it was cold. I shut the door after I left the room, I closed the door and went to report the case to Mrs Brooks.

Q You found that the woman was dead? A Yes sir.

Q Did you see anything else in the room besides that dead body? A Yes sir; I saw a champagne bottle.

Q Was it full or empty? A Empty

Q An empty champagne bottle? A Yes sir.

Q Did you see some glasses? A Yes sir.

Q Was there a cooler there? A I can't say, I don't remember about the cooler, whether the bottle was in the cooler or not not.

Q. What is your best recollection? A I think it was.

Q You think it was in a cooler? A Yes sir.

Q Now did you notice anything on the floor? A Yes sir. bloodstains

Q. Anything else? A Nothing particular.

Q Did you see that lead instrument there? A I did not.

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- Q You did not notice that? A No sir.
- Q You went at once and reported the case to Mrs Brooks?
- A I went to report the case to Mrs Brooks.
- Q Did you leave Mary there? A I left Mary in 83.
- Q Did you lock the door to 84? A I did.
- Q So that you immediately went out and locked the door to 84 and reported the case at once to Mrs Brooks?
- A I went to report the case to Mrs Brooks.
- Q Did you do it? A No sir.
- Q What happened? A Mrs Brooks came down the other way, and had the case----the case was reported to her when I saw her her.
- Q Did you see her afterwards? A Yes sir, I did.
- Q Where did you meet her? A I met her on the fourth floor.
- Q Did you meet her----whereabouts did you meet her; speak right out. A I met her on the fourth floor.
- Q Near Room 84? A No sir, not near Room 84.
- Q Did you talk to her about the case? A yes sir.
- Q Did you give her the key to the room? A No sir, I returned the keys to Mary Higgins.
- Q You gave the key back to Mary Higgins? Yes sir, they were pass keys.
- Q Then did you go back into Room 84? A I did not.
- Q You never went in there again? A Yes sir, after the body had left I put the room in order.

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Q Did you not go in there again while the dead body was there? A No sir, I did not.

Q That is all you know about the case, is it? A That is all.

C R O S S E X A M I N A T I O N

BY MR. MOORE:

Q. Mr. Bryers, you say you left Mary Higgins in Room 83 when you went to report the matter to Mrs Brooks, the housekeeper? A I did.

Q Do you recall now how you and Mary got from Room 84 to Room 83? A I do.

Q How? A I locked the door into 84 and walked around the hall, walked around from one room to the other one in the hall.

Q Did not Mary Higgins pass through the door leading from Room 84 into Room 83? A Did Mary pass through?

Q Yes. A She did not.

Q She had to come out into the hall to go in 83--she did not have to come out into the hall to go into 83, did she?

A She did.

Q What? A Yes sir.

Q There was a door leading from Room 84 and 83, was there not?

A There was.

Q What do you mean--did Mary Higgins come out into the hall and then go into Room 83 and wait for Mrs Brooks to come?

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A I don't know what she waited for; I know she left 84 to go into the hall and went into 83. I left her there and gave her the keys.

Q Are you positive she went into 83 by going out into the main hall and in the hall to 83? A Certainly I am positive she came out into the main hall and entered the door into 83 from that hall.

Q Her manner of going from 84 did not particularly impress itself upon your mind? A What?

Q The manner or way of her going from Room 84 into 83 did not impress particularly on your mind did it? A No sir, but I saw her do it.

Q. Has your attention been called to her manner of going from room 84 into Room 83 before to-day? A Well----

Q Now just answer the question. A Repeat it please.

Q (Question repeated)

BY THE COURT:

Q Do you understand the question? A Not yet.

BY MR. MOORE.

Q I will change "manner" to "way". Has the way in which she got from Room 84 into Room 83 been asked you before to-day?

A No sir.

Q So that you are now speaking from recollection? A I am.

Q Of what took place that morning? A Yes sir.

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Q Without having your attention called to it from that time?

A Yes sir.

Q There was nothing in the way of her going from Room 84 to Room 83 that particularly impressed itself upon your mind, was there? A Yes sir, there was; she was a little excited.

Q So that the fact that you were excited or that she was excited makes you remember every step, or does it tend to make you forget steps? A No sir, I remember it well.

Q You do? A Yes sir, I do.

Q You do not know why she went into Room 83? A Well, I did not, not particularly.

Q You went for the housekeeper? A I did.

BY MR. OSBORNE:

Q Mr. Bryers, did you notice whether the doors were locked between 83 and 84, closed and bolted? A No sir.

Q Or between 84 and 85? A The doors were closed.

Q The doors were closed? A Yes sir.

Q Did you notice whether they were bolted or not? A I do not.

Q Did you notice the windows? A I did.

Q How were they? A Closed.

Q The windows were closed in Room 84? A Yes sir.

BY MR. MOORE:

Q Are you sure, sir, that the windows were closed? A Well,

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they were down.

Q Are you sure they were down? A Down; I am not sure they were all the ways down.

Q If you are not sure you ought not to say so. A But they were down.

Q Did you notice some bits of paper on the windowsill of one of the windows, partly outside of the window and partly inside? A I did not.

Q Did you notice any pieces of paper on the windowsill of that one window? A I did not.

Q Did you look to see whether there were any there? A I did not.

Q Did you look to see whether the windows was up or down? A I looked at the window.

Q Did you look to see whether it was up or down? A Well, it was---

Q Just answer that question. A I looked at the window, but not particularly to look whether they were up or down.

Q You do not know, do you, whether they were up or down? A I know they were down.

Q You do? A But I won't say whether they were closed altogether or not.

Q Do you know what down means? A Do you mean was that window down (referring to a window in the Court room)?

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Q Do you know what down means when applied to a window?

A I do.

Q Well now, was that window leading on to the fire escape up or down, if you know? A Well, it was down, I would call it down.

Q Did you look to see? A I looked at the window, yes sir.

Q To see whether it was up or down? A Not particularly.

Q Well then, do you know? A Well, if I do, I will call it down; if it was six inches----

Q Would you call it down if it was not down? A I would not.

Q Do you know whether it was down or not? A I do.

Q Well then, why do you say you would call it down, whether it was or was not? A Will you leave me explain? If the window was down all the ways to six inches from the sill, I would call that down.

Q You would? A Yes sir; if it was fully up as far as it would go, I would call it up.

Q Then was this window, if you know, raised up six inches?

A I would call that window down, not all the ways down.

Q Do you know whether it was in that condition or not.

A Well, I don't remember about that.

Q Then do you know whether it was entirely closed or not?

A No sir.

Q You don't know whether it was up or not? A Well, I don't remember about that, but I know it was drawn down.

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M A R Y     G.   B R O O K S, a witness called on behalf of the People, being duly sworn, testified as follows:

D I R E C T     E X A M I N A T I O N

BY MR. OSBORNE:

Q    Are you the housekeeper at the Grand Hotel?    A    I am.

Q    How many years have you been there?    A    About three years and a half.

Q    You were there in August, 1898, were you?    A    I was.

Q    Do you recollect on the 16th of August, 1898, receiving some word in regard to the occupants of 84, Room 84?

A    August 16th, yes sir.

Q    Mrs Brooks, you have been housekeeper for the hotel for how long?    A    I have only been housekeeper at the Grand Hotel.

Q    Never was anywhere else?    A    No sir.

Q    Of course you know know all the jury want to hear all you have to say?    A    Yes sir.

Q    Talk so that the twelfth man can hear you, and I will be grateful.    Talk out and tell us all you saw.

A    I met Mary Higgins in the hall, and she reported a woman dead in 84, and I asked her to open the door and let me see.    She opened the door for me, and I looked in and saw a woman lying on the floor dead.    We came out; she bolted the door, and I came out to take the elevator, and the man Sam Bryers, the houseman, I met on the stairs coming up from

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the third floor and I spoke to him. We then took the elevator and went downstairs to Mr. Leland's private office, on the office floor, and reported the case to him.

Q Did you go into the room again after that, Mrs Brooks?

A I did.

Q When was that? A I went directly back after seeing Mr. Leland.

Q Did you go with Mr. Leland? A I went back alone first and locked the door-- that is, made sure the door was locked and took the key and kept it in my possession. In a few moments Mr. Leland came upstairs and I went in with him.

Q You went in with Mr Leland? A Yes sir

Q Well, not, tell us all that you saw when you went in there.

A Well, I saw this body lying on the floor, and I saw a straw hat on the dresser, and a bottle that looked like a champagne bottle standing in the cooler on the table, and a purse and a small bag lying on the floor. Mr. Leland discovered the piece of lead pipe. I didn't see it until he had it in his hands.

Q Is that it right there (referring to "People's Exhibit 17")?

A That looks like it.

Q Did you see anything else, Mrs Brooks? A I don't recollect seeing anything else now.

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- Q There is nothing else that you recollect seeing? A Nothing that I can recollect.
- Q Did you see any scraps of paper on the floor? A No sir.
- Q You did not notice that? A No sir.
- Q Would you recognize a picture of the woman? A I don't think so.
- Q You don't think you could? A No sir, I only saw her dead.
- Q You do not know anything about who the man was that was with the woman, or anything like that? A No sir, I do not.
- Q Did you and Mr. Leland leave the room together? A Yes sir.
- Q When you left, did you lock the door? A I did.
- Q Well, when you went back to examine whether the door was locked did you find it locked at that time? A I did.
- Q Now Mrs Brooks, that is all you know about it, is it?
- A That is all I know about the case.
- Q Now were you present when the police came? A I was present when one policeman came.
- Q Who was the first policeman who got there, do you recollect?
- A I don't remember the name. I could recognize him, but I don't know the name.
- Q Was it a policeman from the beat or from the precinct?
- A I think he was from the precinct; I am not sure.
- Q Was Mr. Leland present when the police came? A Yes sir.

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Q Did Mr. Leland go in with the officer? A Yes sir.

Q And after the police came, were you there when the policeman went in with Mr. Leland? A No sir.

C R O S S E X A M I N A T I O N :

BY MR. MOORE:

Q You spoke of a straw hat? A Yes sir.

Q What kind of a straw hat was that? A As I remember it, it looked like an ordinary white sailor's straw hat.

Q A lady's sailor straw hat? A Yes sir.

Q Did you notice whether that champagne bottle was empty or not? A I did not.

Q Did you notice the woman's clothes at all? A They seemed to be in perfect order; she was fully dressed.

Q The woman was fully dressed, and her clothes seemed to be in perfect order? A Yes sir, as far as I noticed.

Q You told the jury, did you not, that the champagne bottle was in a cooler? A Yes sir, I remember it was in a cooler.

BY MR. OSBORNE:

Q Mrs Brooks, I show you a hat which seems to be marked "Exhibit 84 for identification" -- I ask you if that is the kind of hat you saw there? A It looked like that style, of hat, plain sailor.

Q This same kind of hat? A Yes sir.

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- Q It was not mashed at that time? A No sir, I don't think so.
- Q The same kind of a hat as that? A Yes sir.
- Q I show you a bag, which is marked Exhibit 15 for identification?" A That looks like about the bag.
- Q That is about like the bag? A Yes sir, about the size.
- Q Did you notice a tear in it at the time? A No sir, I did not.
- Q I show you a pocketbook, which is marked "People's Exhibit 16 for identification," and I ask you if that is it?
- A That looks like the one.
- Q Did you notice whether it was lying open or not? A I did not.
- Q Where was that? A That was lying to the left of the body towards the feet.
- Q Where was this bag?

MR. MOORE: There is no question about the bag or any of these things.

MR. OSBORNE: And no question about the lead instrument or the pocketbook?

MR. MOORE: No sir.

MR. OSBORNE: Then I will offer these three in evidence.

(The straw hat was marked " People's Exhibit Number 84, May 14th, 1901.")

(The leather bag was marked "People's Exhibit 15, May 14th, 1901")

(The pocketbook was marked "People's Exhibit 16 May 14th, 1901")

Q Is this the kind of a skirt the woman had on? A She had on a crash skirt about this color.

MR. OSBORNE: I will offer that in evidence too. Do you make any question about that?

MR. MOORE: I do not.

(The skirt referred to was marked "People's Exhibit Number 8, May 14th, 1901.")

Q What kind of a waist had she on? A A light waist, I don't know whether it was white or not.

Q A White waist? A A light waist, I think it was white or light material.

MR. OSBORNE: You make no question about that being the waist, do you?

MR. MOORE: No sir.

MR. OSBORNE: I offer that in evidence, if your Honor please.

MR. MOORE: There is not question about any of those things.

(The waist referred to was marked "People's Exhibit Number C., May 14th., 1901.")

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FRANK E TOWLE, Junior, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION:

BY MR. OSBORNE:

Q Mr. Towle, state your business, your place of business and your qualifications to draw a diagram, will you, please?

A I am a city surveyor, and have been for the last 15 years with an office at 243 Broadway, New York.

My home address is 45 Irving Place, Borough of Brooklyn, New York.

Q Did you draw a diagram of the Grand Hotel, of parts of it?

A Yes sir.

Q At the request of the District Attorney? A Yes sir.

Q Of the County? A Yes sir.

Q When did you do it? A October 20, 1898.

Q Now let us see it, will you, please? A I will have to put this up on the easel. There are two Diagrams referring to about the same position.

Q Put them up there and explain them to the jury. A Now, the upper diagram is a diagram representing the hotel floor, the main floor of the hotel. This is the corridor.

Q Don't put your finger there when you say, "This is the corridor." It confuses me, as you put your finger just where we want to see the corridor is. A This is the corridor of the hotel and the stairway leading up.

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Q That is the corridor? A Yes sir.

Q What is the corridor? A This portion of the hotel surrounded by those walls, and it is bounded---

Q You mean that the corridor runs right around there and there ( indicating )? A Yes sir.

Q And there ( indicating ) A Yes sir; to the east of the corridor is the dining-room; to the south of the corridor is the hallway and the elevator; to the north is West 31st street and the sidewalk and the ladies' entrance entering into the corridor, also connecting either the dining-room through this door, and connecting into the corridor through this door ( indicating ). In the corridor there is a stairway leading downstairs, also a stairway leading upstairs, directly over the office which is located under the stairway.

In the dining-room there is a doorway leading into the ladies' entrance, another doorway leading into the corridor on the north side of the stairway; another door leading into the corridor south of the stairway, and still another door leading from the dining-room into the corridor, near the elevator.

Q Then, the dining-room runs the whole length of the building, from north to south? A The whole length of the building is shown on this diagram.

Q From north to south? A Yes sir.

Q And the elevator is on the south side of the building?

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A This is the position in which the elevator is (indicating).

Q On the south side of the building? A Yes sir.

Q And open right into the corridor? A Yes sir.

Q Will you take your pencil and run it around what you claim to be the office? A The office is bounded by this yellow partition. This is the office (indicating), located directly under the stone stairway. The stone stairway is right above the office, the stone stairway located in the diagram by points a and b, and shown on the elevation plan directly above it as being in position a and position b.

Q Where is the office with regard to the elevation (indicating)? A Directly under it, occupying this space (indicating).

Q So that if an individual would walk down the stairway on that side to go out the Broadway entrance he would walk around how?

A He would come down there, b, go down the stairs directly over the office, downstairs again to the corridor, and then turn in this direction and walk out into Broadway; or he could go through the ladies' entrance out into West 31st Street.

Q And therefore, if this ladies' entrance was closed, he would have to walk around in front of the office, in order to get to Broadway? A Come right through her (indicating) to get

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to Broadway. A person coming in through the ladies' entrance and going to take the elevator up to the upper floors, would either go through this door into the dining-room, or this door marked x and y, come through the dining-room and out of the southerly doors of the dining-room directly into the elevator; or they could come out in front of the office and take the elevator in front of the office; or they could come through Broadway, the Broadway entrance, directly in front of the office, and then take the elevator.

Q How is that stairway, as you refer to it being the other stairway? A This stairway leads down to the lower floors.

Q Leads down to the lower floors? A Yes sir.

Q That is the basement? A Yes sir.

Q Now, the other diagram? A This is a diagram marked Grand Hotel, plan of Rooms Number 83, Number 84, on the fourth floor with the distances--

Q Would you mind putting that above the other one?

A Yes sir.

Q Go right on. A This is a diagram showing Room No. 84, on the fourth floor, also the general location of the hallways in relation to the position of the elevator, where I have my pencil pointing to.

The halls are out of scale, but the inches are given here, the measurements are given.

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Q Is that a full plan of the floor? A Yes sir, a full plan of Room 84.

BY THE SIXTH JUROR:

Q Is the interior of room 83, 84 and 85 on that? A No sir: I have the location, however, of all the walls of 84, showing the different entrances to room No 83 and room no 85, and also the windows to room No. 84.

BY MR. OSBORNE:

Q Run your pencil around what you claim to be a diagram of Room No 84. A Room No 84 is located inside of these walls.

Q What is that? A There is a brick wall on the east side with a doorway, in this position ( indicating), having a partition on its southerly side.

Q Why do you move your pencil over there when you are talking about this room here? A I have finished that.

Q What doorway does that run into, over there on the right, this one here, into what room? A That leads into the east of room No 84.

Q Do you know what that is? A No sir, I do not know what that door is.

Q One door? A Yes sir.

BY THE TENTH JUROR:

Q Are these rooms facing north? A Yes sir, facing north, facing West 31st Street.

BY MR. OSBORNE:

Q Now, there is one door running into the room on the east side?

A Yes sir.

Q Is that right? A Yes sir.

Q And two doors running out? A On the west of Room No. 84 there is a frame partition enclosing the bathroom, which is connected with room No. 84 by a door, also a closet which connects room No. 84 by a door, the closet connecting and the room to the west of room No 84 also by a door at this point (indication).

BY THE TENTH JUROR:

Q How do you remember those, 83 and 85?

MR. OSBORNE: I will prove that by someone from the hotel. The juror has asked which side is 83 and which 85.

THE WITNESS: This must be 83 and 84.

MR. OSBORNE: We will prove that by another witness.

THE WITNESS: In the wall, in the easterly wall of room 84, separating that from the room to the east, there is a doorway. In that doorway there is one door which hinges as my pencil hinges from this point, and closes there (indicating).

Q The door opening towards the south? A Towards the east.

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This position, between this point and this, being a vacant space ( indicating ).

Q The hinges to that door being towards the south? A On the east side of the wall towards the south. The doors are shown

The closet is at the point marked " Closet ", leading between room No 84 and the room to the west. The position of this door is shown and the position of this door in the closet. These doors were closed at the time I made the survey. I saw the hinges in the same way.

Q But it was then hinged towards the east? A Yes sir.

Q These hinges fasten in the south side of the wall? A Yes sir.

BY THE FIFTH JUROR:

Q There is no door dividing that small closet between the two rooms? A There are two doors, a door at this point and a door at that point ( indicating ).

Q I see something in the centre of that, what is that?

A That is the closet, and at this place there are no doors-- this space represents nothing but the structure.

In room 84 are two windows overlooking West 31st street, the westerly window looking right out on West 31st street, without anything in front of it; the easterly window having a firescape, leading to the fire escape, which fire escape connects with the room to the east.

Through the door leading into the hall the distance total

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first corner of the hall leading south is 24 feet. The distance from the center of that hall in a direct line to the elevator is 60 feet.

A person coming out of the door of No 84 would walk east then south to the elevator at the point marked "Elevator", on the plan--a person would go south.

Q How far altogether from room No. 84 to the elevator?

A Eighty-four feet.

Q From the door of room 84 to the elevator? A Yes sir.

Q Can you see the door of room 84 from the elevator?

A You cannot.

Q You have to turn a corner? A Yes sir, you have to turn a corner and come down through the hall. There is a stairway directly opposite the elevator which leads downstairs; the stairway in the middle being one stairway directly under the other, and going all the way down until you come to the office floor, and then they go down over the office to the ground floor.

The fire escape extends in this direction, like that (indicating).

BY THE SIXTH JUROR:

Q That fire escape embraces the first window in the next room as well as of room 84? A It does.

BY THE FIFTH JUROR:

Q How are those doors, those connecting doors fastened?

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A I did not make an examination.

Q You did not make an examination of the fastening on the doors between room 84 and the adjoining room? A They were fastened when I measured them; how they were fastened, I do not know.

MR. MOORE: I desire to ask him a few questions in regard to the diagram.

THE COURT: Do you offer the diagram in evidence?

MR. OSBORNE: I will, but he desires to cross-examine.

THE COURT: Before you offer it in evidence?

MR. MOORE: No sir; I consent that they both go in evidence.

THE COURT: Let them be marked in evidence, and then Mr. Moore can cross-examine.

(The diagram referred to were marked People's Exhibit One and Two, May 14, 1901.)

# CROSS EXAMINATION.

BY MR. MOORE:

Q Now, give me the first diagram about which you conversed.

A The first diagram is marked Exhibit One, March 23, 1890.

Q And what is the second exhibit marked? A Exhibit No 2.

Q Now, did you observe how the office is enclosed? A The of-

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office is enclosed by a wooden partition, a glass and wooden partition running around and marked yellow and black on this diagram, coming around and following the lines like that (illustrating).

Q Is there any portion of it that is enclosed to a point higher than a man's head? A High than a man's head?

Q Yes. A Yes sir.

Q Now, beginning with a point next to the stairs, indicate with your pencil how far around that condition exists? A That comes to there, and then it runs to there (indicating).

Q Just answer that; indicate with your pencil the point--where you now have your pencil is a counter? A Yes sir, that is a counter or desk.

Q Now, inside of that office did you notice whether or not there was an accountant's desk? A I did not.

Q Don't you recall over in the northeast corner a small desk? A Yes sir I do.

Q Now indicate with your pencil just where the desk was? A I am not sure.

Q As you now recall it? A Well possibly here.

Q Mark a cross mark here? A (Witness does so.)

Q The stairs are broken and come down over this office, do they not? A Yes sir.

Q So that if a person were walking down stairs and another

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were in the office, he could not see that person coming downstairs until after they had left the stairs, could they?

A They could not.

Q And they would have to advance up into the office until they had passed a point where the office side is boarded up before he could be seen, would he not? A They would have to pass a point to be in a position about where my pencil is now before they could be seen.

Q Now, in coming downstairs and passing out of the Broadway entrance, where would they have to pass? A Directly in front of the office.

Q Now, is that true, they would have to pass directly in front of the office? A If they went out the Broadway entrance, yes sir.

Q Look at the diagram again. I am talking not in going from the stairs to the corridor leading down to the Broadway entrance would they have to come over here (indicating)?

A They would have to come over here (indicating).

Q Would they have to come directly in front of the office as you drew your pencil? A They would have to reach that point (indicating).

Q Couldn't it be done by reaching this point right here (indicating)? A They would have to come to that point.

Q And that is how with reference to the desk--there is a desk?

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A If that is the position in which the desk was and a man was sitting at the desk, I don't think he could possibly see out into the room.

RE-DIRECT EXAMINATION:

BY MR. O'CONNOR:

Q But if a man were at the desk there and hadn't his back turned could he see any person that was passing out? A If he was sitting at the desk here.

Q Sitting, not facing the desk? A That desk is a counter--- I mean it is a counter right in here.

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

Q How wide is that counter there? A About four feet.

Q How much of an open space is there? A It is about three feet wide.

Q How much of an open space is there above the counter?

A Nine feet.

Q Nine feet? A Yes sir.

Q Then it is possible that a man who was facing this way, that is, towards the window, and a person were to pass the desk there, he could have seen him, could he not? A I think he could provided he was high enough to look over the counter.

Q How high was the counter? A This counter standing two feet six.

Q So that a man about five feet six or seven could look over

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that counter? A If he was standing up.

Q Suppose a man was sitting down at the door? A He could see over it with ease.

BY MR. MOORE:

Q Now, this other side of the counter or desk is also enclosed, is it not, from here down to this point? A Yes sir.

Q And it is enclosed with colored glass, is it not? A A glass and frame partition.

Q So that the only time that a person sitting or standing at the office desk could see a person coming down from the stairway would be during the time that he was in the range of vision between these two spaces, would it not? A Yes sir.

Q A distance of about how many feet? A About six feet.

Q About six feet? A Yes sir.

Q And if a person were coming from the stairway down to the main corridor leading out the Broadway entrance, would a person sitting at the desk be able to see the party after he had gotten into the Broadway entrance proper? A No sir, he could not.

Q While he was in his range of vision, would he get a fullface view or a side view?

MR. O'CONNOR: I object to that question as assuming something that is not possible.

THE COURT: I think it is proper.

A A side view.

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BY MR. OSBORNE:

Q Suppose the man looked around? A A front view.

MR. MOORE: I submit that the District Attorney ought to wait until I get through.

THE COURT: Yes, wait until the cross-examination is completed.

MR. OSBORNE: If it is not finished, I apologize and withdraw the question.

BY MR. MOORE:

Q Assuming that a person has his hat on the side of his head, a straw hat, while he is passing down through that corridor from the stairway to the Broadway entrance, the hat upon the side of the head towards the office, would you then be able while sitting at the desk to get a full view of him?

A I would not.

BY MR. OSBORNE.

Q Have you placed your man to carry on your assumptions?

A I have supposed that the desk is located at this point, and that the man is here (indicating).

Q One moment. Do you know whether there is any desk there or not? A I do not.

MR. MOORE: I do not think that is proper.

Q I want to know whether assuming the fact---

MR. MOORE: I don't think it is proper for

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counsel upon either side to make assertions as to what is or what is not in this case.

THE COURT: I think you are mistaken.

MR. MOORE: But Mr. O'Connor suggested loud enough so that I could hear, and I presume the jury heard, "There is no desk there."

MR. O'CONNOR: I beg your Honor's pardon.

THE COURT: I think Mr. Moore is mistaken.

MR. MOORE: Your Honor, I am not mistaken as to what I heard.

THE COURT: I am certain as close to Mr. O'Connor as you are, and I did not hear it. I am trying to pay closed attention.

MR. MOORE: I don't think these things ought to be permitted.

THE COURT: It certainly is proper, if it is done. I have not heard Mr. O'Connor say it, and therefore I have no right to reprimand him for it.

Q Did you find a desk there? A I am not sure.

Q You are not sure whether there was one there or not?

A No sir, I did not measure it.

Q Now, assuming that a desk was there, have you any right to assume that a man could not see through the glass towards the left over there? A The glass was opaque at the time I

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measured it.

Q How do you mean? A Colored-- not colored, but made in such a way that you couldn't see through it.

Q You couldn't see through that glass? A No Sir.

Q A person inside could not see the people outside, and the people outside could not see them? A Either one-- you couldn't see through it.

Q Did you go inside and try it? A Yes sir.

Q You could not sit at that desk and see anything that was going on outside through it? A It was a blind-- ordinary partition, such as a lawyer's partition usually is, simply to prevent people from looking in.

Q From looking in? A Yes sir.

Q Now, where did that partition start from; put it exactly where it started from? A The partition started from this point it being connected.

Q Now, just stop right there. A The partition started here (indicating).

Q Mark that place. A It went from the cross around to this point.

Q One moment; start it near something, with a, b, c, d, e, f, or g. A Call it with C.

Q It starts with C? A Yes sir.

Q Mark it. A D is a door.

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- Q Was that opaque too? A Yes sir, the space between C and D was a door, or between D and E.
- Q Then it goes to E? A Yes sir, the same partition.
- Q That is the same partition? A Yes sir, made of glass and wood.
- Q Made of glass and wood? A Yes sir.
- Q That is opaque? A Yes sir.
- Q It goes around to where? A To F. This partition is made of opaque glass and wood.
- Q Well, go on. A To G; it stops at a post, this post being shown in its elevation as that point ( indicating ).
- Q And it stops at that Post? A Yes sir G.
- Q Is that made of opaque glass? A Yes sir; F and G is made of opaque glass and wood.
- Q Now, on the other side how does that go? A Beginning at a point marked H, the partition goes to I, being made of opaque glass and wood, and to J, being made of opaque glass and wood.
- Q Down to K? A Yes sir, down to K, made of opaque glass and wood.
- Q How long is that partition? A That partition is seven feet high.
- Q From the floor? A Yes sir; about.
- Q So that the space of the office proper as they have in hotels,

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a place you would properly expect to find the register, extend from where to where? A From the point marked H to G.

BY MR. MOORE:

Q Have you any way of determining the distance from the head of the stairs leading to the basement to the place where you indicate the desk as being? A Yes sir, I have.

Q Can you tell me what the distance is? A The map is drawn to a scale of 3 feet to an inch, and the distance from this point to there (indicating).

Q Where the desk was? A Yes sir; is 21 feet.

Q 21 feet? A Yes sir.

THOMAS D. HABERLIN, a witness called on behalf of the people, being duly sworn testified as follows:

DIRECT EXAMINATION.

BY MR. OSBORNE:

Q Mr. Haberlin, what is your business? A Door boy at the Grand Hotel.

Q Hallboy at the Grand Hotel? A Door boy.

Q Were you a door boy on the 15th of August, 1898? A Yes sir.

Q You recollect that day, do you? A Yes sir.

Q Now, do you close the ladies' entrance on 31st street when you quit at night? A Yes sir.

Q Do you lock it? A Yes sir.

What time did you quit on the morning of August 16th?

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A One o'clock.

Q One o'clock? A Yes sir.

Q What time did you lock the door? A At one o'clock I locked the door.

Q You locked it yourself? A Yes sir.

Q At one o'clock on the morning of August 16th? A Yes sir.

Q What did you do with the key? A I brought that to the office and laid it on the time-clock, behind the office there, just at the corner. Mr. Gregory was standing behind there.

Q What time did you go on duty that night? A I went on at 5.30.

Q 5.30? A Yes sir.

Q Do you recall seeing anybody enter that hotel that night that you afterwards recognized at all? A No sir.

Q Did you see Kennedy or anybody come in there? A Not coming in sir.

Q Was Mr. Gregory on duty at the time you gave him the key?

A Yes sir.

Q What time did you report the next morning? A 12.30 the next day; the same day, I should say.

Mr. Moore: No Cross-examination.

WILLIAM G. IRLAND, a witness called on behalf of the People, being duly sworn, testified as follows:

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DIRECT EXAMINATION:

BY MR. OSBORNE:

Q Mr. Leland, you are proprietor of the Grand Hotel, are you?

A Yes sir.

Q How long have you occupied that hotel, sir? A For the past six years.

Q The past eight years? A Six.

Q You were the proprietor of the hotel on the 15th and 16th of August, 1898, were you? A Yes sir.

Q On the morning of the 16th of August, 1898, was your attention called to anything in the hotel? A It was.

Q By whom was your attention first called? A Mrs Brooks, the housekeeper.

Q Speak a little louder. A Mrs Brooks, the housekeeper.

Q Mrs Brooks, the housekeeper, came to you where? A In my office.

Q Your private office? A Yes sir.

Q And she notified you of something? A Yes sir.

Q In consequences of what she said to you, what did you do?

A I left my office and went up to the fourth floor in company with the housekeeper, and meantime she had told me what she had discovered.

Q Don't tell us what she told you, but in consequences of what she told you what did you do, you went to room 84?

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A Yes sir, I went to room 84.

Q What time of day was that? A Well, about nine o'clock, perhaps a few minutes before.

Q About nine o'clock? A Yes sir.

Q Now, tell us all that happened when you went up, and all that you saw, in your own way? A Well, Mrs. Brooks unlocked the door and we entered the room. I saw the body of a woman lying on the floor between the center table, and the mantel. Near her feet I saw a little, small bag, and a little further away from her feet, a pocket-book, and a little to the right of the pocket-book, a bar of lead pipe. I don't think I examined the body at that time. Of course, I noted the condition of the room.

Q That is what the jury want to hear now, the condition of the room. Go on. A Well, the body was lying north and south, between the table and the mantel-piece, lying on her back. Appearances of blood on the right ear, and a bruise back about here on the head (indicating); and I noticed that the bed had not been disturbed in any way, as the linen was all fresh and had not been mussed.

By moving the lounges which stood in the northwest corner of the room, I discovered a discoloration like blood on the carpet, and there was a little at the head of the body on the carpet like blood.

I noticed the condition of the doors of the room adjoining

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ing, room 85, which was a communicating room with 84. It was fastened on the inside, not with a bolt, but with what we call a hook and staple, and both fastenings on the inside of the door, not what we call a mortise bolt. I don't know whether I make that clear or not. There are two doors on the west of 84, one opening into a little clothes room, and passing on further, a second door into room 83. I open the door into the clothes room. The next door from the clothes room, communicating with 83, was fastened with the same fastening, a hook and staple.

- Q Go on, and tell us if you noticed the windows. A The windows. One of the windows, the west one-- I am not sure about the east one-- was about that high from the sill (indicating), and the curtain drawn down to about where the opening was. I think the other window was the same, but I am not positive. I noticed one.

BY THE COURT:

- Q You spoke about this staple on the door; was that inside of room 84, or was it leading from 84 to the other room?

A Leading from room 84 to 85. The old fastening was on the inside of the room.

- Q On both sides of the room, 83 and 85? A Yes sir; although this fastening was on the second door going from 83.

- Q It was inside on it? A Yes sir.

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Q So that you couldn't go from 83 into 83, or from 85 into 84?

A No sir; neither one.

BY MR. OSBORNE:

Q Now, your best recollection is that the windows were slightly raised? A About, I should think, four inches, and the curtains down to just about the bottom of the window sill.

Q Well, was there a fire escape there Mr. Leland? A Yes sir.

Q That fire escape does not reach all the way down, does it?

A Well, what do you mean, down to the ground? It reaches down to the parlor floor.

Q Down to the parlor floor? A Yes sir.

Q On the outside of the hotel? A Yes sir.

Q Well, is this the instrument that you saw there (People's exhibit 17)? A It resembles the instrument that I saw, Mr. Osborne, with the exception of the cuts here.

Q There was something wrapped around the end of it when you got it? A Yes sir, tape.

Q Bicycle tape, do you know? A Well, I should think that is what they call it.

Q The tape was wrapped around the end? A Yes sir, that is this end.

MR OSBORNE: There is no question about these being the things, if your Honor please.

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THE COURT: I understand it is not distuted.

- Q I understand you did not see either of the parties before they entered, did you, Mr. Leland? A I did not.
- Q That is all you know about the case? A All that I recollect, Mr. Osborne; there might have been other matters.
- Q Did you notice anything about-- were you there when the police first came, Mr. Leland? A Yes sir.
- Q Do you know who the officer was that first came? A I do not.
- Q Was it Officer Craven, do you recollect? A I don't remember.
- Q Where did you send to get the officer? A I sent the porter over to the captain, and reported the case to Captain Price.
- Q Did he come over to see you? A Well, the Captain sent an officer first to take charge of the room.
- Q You were the first person that communicated with the police through your porter, were you? A Yes sir.
- Q Do you know the name of your porter? A John Fitzpatrick.
- Q John Fitzpatrick? A Yes sir.
- Q He is the porter that you sent? A Yes sir.
- Q Did the officer come back with John? A Well, either with him or, or directly after him in a very few minutes.
- Q Now how long after you sent the porter was it that Captain Price came? A Well, now, as I remember, I should say 15

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or 20 minutes; I would not think more.

Q And after the Captain came, he took possession of the room, I suppose? A Yes, sir.

Q And held it in complete charge until the Coroner got there?

A I suppose so, yes sir; he had a key to the room.

CROSS EXAMINATION:

BY MR. MOORE:

Q The door between room 83 and room 84 opened into which of the rooms? A Between 83 and 84 the door opened into 83.

Q Now, upon one side of that door there was a bolt, wasn't there? A On the 83 side.

Q And the hook was on the 84 side? A Yes sir.

Q Between room 84 and room 85? A It is the same.

Q There were two doors there, wasn't there, between 84 and 85?

A No sir: two doors between 83 and 84.

Q Is 85 nearer Broadway than 84? A 83 is near Broadway, and 85 towards 31st Street.

Q There were two doors leading then, between 83 and 84?

A Yes sir.

Q How did those doors open--how did the door leading from closet into 83 open? A That opened into 84.

Q That one had a hook on the 83 side, didn't it? A No, Sir: that had nothing but a lock on it.

Q Didn't that also have a hook on the side? A It had on the

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other side of the door, but opening from 83.

Q That is what I am asking you. Now, that door had a hook on the 83 side, hadn't it? A Yes sir.

Q How about the door leading from the inside into room 84, which was did that swing? A The door from the closet into 84, that door would swing into 84.

Q And that also had a hook on the closet, did it not?

A Yes sir.

Q Now, are you sure that those two hooks were both fastened?

A No sir; they couldn't both be fastened.

Q Sir? A They couldn't both be fastened.

Q Why couldn't they? A Those hoks are put inside of those two doors so that either party using the clothes room in connection with 83 and 84 would hook the hook on the opposite side so that they would control the location.

Q Now, let us see; both of those doors leading from room 84 to room 83 swing the same way, do they not? A No sir; the first door going from 84 into the clothes room, would swing into 84. The door going from the further side of the clothes room into 83 would swing into 83.

Q And the door, then, that swung into 83 had a hook on the closed side, didn't it? A Yes sir.

Q The door that swung into 84 had a hook also on the closed side? A It had a hook, but it was not hooked.

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- Q It wasn't hooked? A No sir.
- Q Sure of that? A Yes sir.
- Q Was the one leading into 83 hooked? A Yes sir.
- Q Are you sure of that? A Yes sir.
- Q Was the one leading into 85 hooked? A Yes sir.
- Q Were eight of them or any of them looked as well? A Well, that I couldn't tell, because one of them or both of them were occupied; I don't remember; I remember one was.
- Q Well not, never mind the occupancy of the room. A I could not get into the rooms if they were occupied.
- Q From your examination that you made there, are you able to say whether any one of those three doors between rooms 83, 84 and 85 were locked? A Not on the opposite side, I couldn't say.
- Q Did you try them after unhooking them? A I did not unhook them; I simply looked to see if they were hooked, and saw there was no communication.
- Q All that you know is that they were hooked? A Yes sir.
- Q Mr. Leland, did you notice the deceased's ears that morning?
- A I simply noticed a blood stain, that is all.
- Q At the lobe of the ear did you notice whether or not there was a laceration there? A I did not at that time.
- Q Did you at any time? A Later it was called to my attention, but at that time I did not notice anything but blood.

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Q What apparently had been the cause of the laceration?

A Well, it looked as though something had, an earring had been pulled out.

Q Was that so of both ears? A No sir, I think not.

Q Did you examine both ears? A I think the right one.

Q Did you examine both ears? A The other was not--

Q Sir? A One looked as though an earring had been pulled out, and the other, if there was one there, taken out-- as I remember it .

Q What? A It looked as though the one earring had been pulled out through the flesh and the other, if it had one, as though it had been taken out.

Q Now, Mr. Leland, was there any other crime reported to you as taking place on that floor that night?

MR OSBORNE: Objected to as being entirely immaterial---of any other crime being reported to him.

MR MOORE: It might show some connection with this case.

THE COURT: I will allow it.

THE WITNESS: What is the question?

Q (Question repeated). A I think there was a supposed robbery reported in one of the rooms.

Q Don't you know there was, Mr. Leland? A I put in the word "supposed" because the further investigated the more we

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were satisfied there had not been any robbery. It was reported that there had been.

Q Don't you know that there was a robbery reported to you as taking place that night? A I said there was a reported robbery, a supposed robbery.

Q A supposed robbery? A Yes sir; but we don't admit there was any robbery.

Q Certainly you don't, but there was one reported.

A (No answer).

BY MR. OSBORNE:

Q One minute, please. Mr. Leland, I wish you would take that diagram of the Grand Hotel, room 84, and stand right here before the jury. That is room 84. We will assume now that this is 31st Street and that would be east. Now, what was the room on the east of that? A Room 85.

Q The room on the east was room 85? A Yes sir.

Q How many doors between room 85 and room 84? A One door.

Q One door? A Yes sir.

Q When you went into room 84 on the morning of the 16th of August, how did you find it? A I found the door closed.

Q Was it hooked or not hooked or not hooked? A It was hooked.

Q Fastened? A Yes sir, fastened on the inside.

Q Now, what was the number of the room on the east side of room 84? A 83.

Q Room 83? A Yes sir.

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- Q On the west side I mean? Yes sir; room 83.
- Q Now you notice this is a bathroom, is that right?
- A Yes sir.
- Q Was there any door connecting the bathroom with room 84?
- A No sir.
- Q There was not? A No sir.
- Q Now, is this what you refer to as the closet or clothes room?
- A Yes sir.
- Q Was there a door connecting that closet with room 83?
- A Yes sir.
- Q How was that fastened? This door here connecting with 83, how was that fastened? A Fastened across the corner like that, with a hook and staple.
- Q Did it have a staple? A Yes sir.
- Q Was that fastened? A Yes sir.
- Q Was there any way of going from room 85 into room 84?
- A No sir, there was not.
- Q Was there any way of going from 83 into 84? A There was not .
- Q Do you know who occupied rooms 83 and 85 that night?
- A I do not Mr. Osborne.
- Q Don't your books show A Yes sir.
- Q See if it shows there (handing witness a book). A I am not sure that I can tell that Mr. Osborne, it requires another

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book with this sometimes.

MR MOORE: I object to the reference to the book, if your Honor please.

MR. OSBORNE: Then you do not want to know who occupied that room.

MR. MOORE: I object to that, if your Honor please, on the ground that it is immaterial, incompetent and improper.

THE COURT. On the ground of incompetency, I will sustain the objection at this time.

- Q Mr. Leland, will you do me the favor of stating whether or not you have a record of who occupied room 83 and 85? If you have, state it? A I have that record, yes sir.
- Q Is it in your hand? A No sir; it might be, but I am not able to show it by this book; our room-book would show it.
- Q See whether it is in that book? A The room might have been occupied for a day, or might have been occupied for thirty days.
- Q You have got it and you could bring it down here to-morrow? A Well, the clerk would be better.
- Q The clerk can bring it down here to-morrow? A Yes sir; I have a book which we call our room-book.
- Q You investigated that matter thoroughly, of the reported larceny or something of that kind, did you, Mr. Leland.

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A Yes sir; we had put a detective on the case.

Q What room was that reported from, do you know? A I could not tell you now.

Q Do you know whether it was on that floor or not? A I think <sup>was</sup> in.

Q You think it was? A Yes sir.

Q But you did not discover anything which led you to believe there was any? A No sir.

MR. MOORE: Objected to.

MR. OSBORNE:

You brought it out.

THE COURT. Objection sustained.

BY THE COURT.

Q Nothing was done subsequent to your having been informed that there was a larceny? A No sir.

BY MR. OSBORNE

Q Did the man do anything after that. A I didn't hear of it.

BY MR. MOORE:

Q You reported it to the police officers, didn't you?

A What is that?

Q Did you report that robbery or larceny to the police officers?

A I don't know whether I did or we employed a private detective, that we do sometimes.

Q Then, something was done subsequent to the time of its being reported to you, wasn't there? A After the gentleman reported that he thought he had lost money from his room, we

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had a officer to work the matter up.

Q Now, Mr. Leland, you said in answer to the question of Mr. Osborne, that there was no way upon that occasion of communicating between room 83 and 84, or 85 and 84 I should say, is that right? A No way of communicating between those rooms.

Q What? A No way of communicating between the rooms.

Q Wasn't there a fire escape there, or a railing passing from one room to the other of those two? A The fire escape I think would cover 84 and 85.

Q So that simply by raising the windows a person could step out on to that balcony and then pass from there directly into room 85, could they not? A Well, Mr. Moore--

Q Just answer the question. A I will if you will let me explain I will.

Q Could they or could they not? A The fire escape covers two rooms; now, whether it covers 83 and 84 or 85 I am not sure.

Q At any rate, communication could be had between two of those three rooms by means of that escape leading from there?

A By means of the fire escape.

Q The window is very low, is it not, and there is a casing, a low casing? Usually so, I guess.

Q So that a person, if the window were raised up, could with ease step through and out on the balcony, could they not?

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A Possibly.

Q So by that means one could communicate between the two rooms almost as readily as they could through an open door, couldn't they? A Well, not as readily, but--

Q They could very readily, couldn't they? A Yes sir.

The Court admonished the jury in accordance with the provisions of Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case until Wednesday morning, May 15th, 1901. at 10.30 o'clock.

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New York, May 15th, 1901.

TRIAL RESUMED.

CHARLES McCURRY, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION:  
BY MR. OSBORNE:

Q What is your business? A Head waiter in the Grand Hotel.

Q Speak out loud so that the twelfth juror can hear you? A Head Waiter.

Q Head waiter in the Grand Hotel? A Yes sir.

Q How long have you been head waiter in the Grand Hotel? A About eighteen years.

Q Were you head waiter in the Grand Hotel in August, 1898? A I was.

Q What time did you go on duty? A About a quarter past five in the evening.

Q How long did you stay on duty? A Till about half past eight.

Q What duty did you perform as head waiter? A I seat people as they come in and see that they are attended to.

Q At half past five what were you doing in the dining room on the 15th of August? A At half past five I was eating my dinner.

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- Q Now, look on this diagram here and indicate to the jury about where you were at half past five. This is the dining room. Now, be careful in understanding the relation of the whole thing. This is the corridor, you will notice, and this West 31st Street. This is the ladies' entrance and there is a door and this is the door to the corridor.

MR. MOORE: I do not think the jurors can see.

THE WITNESS: I was sitting at a table under this music stand in the dining room Number 2.

- Q What did you say? A I was sitting at a table under the music stand, or nearly so.

- Q Put a little dot there where you were. A Here (indicating).

MR. OSBORNE: He indicates by a small dot at a point marked "gallery".

- Q Is that where you were sitting? A Yes sir, the first table there.

- Q That is in what you call the Number 2 dining room? A Yes, sir, the Number 2 dining room.

- Q Go on and tell exactly all that you saw there, and put that diagram down now, please? A Well, I was sitting there, and there was a lady and gentleman passed me about half past five or a quarter of six.

- Q Had you see that lady or gentleman before that time? A

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I had not.

Q What was the first time you have ever seen any one? A  
Yes sir.

Q Either one of those? A Yes sir, that was the first time  
time I did.

Q Now do you see anybody in court that you saw at that time.  
A I do.

Q Who was it or who is it? A The defendant sitting right  
behind there.

Q That is the defendant there? A Yes sir.

Q Are you positive about that, Mr. McCurry? A I am.

Q Now, tell all that you saw happen at that time? A That  
is about all I saw; they passed me.

Q Where did they come from? Indicate on the diagram there  
where they came from? A From the corridor, I suppose.

Q Not whether you suppose; where did you see them, in what  
direction were they coming? A They were coming from the  
north end towards the south.

Q That is they were coming from the direction here from what  
you call dining room Number 1, into number 2? A Yes,  
sir.

Q Is that it? A Yes sir, that is it.

Q Now, what did you see them do, Mr. McCurry? A They passed  
along and they caused to halt there by a waiter;

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the waiter followed them out of Number 1 into number 2, thinking they wanted to be seated there, and they were caused to halt through that.

Q They are caused to halt? A Yes sir, but they said, or the lady said, "The elevator,# so they were shown right along towards the elevator.

Q Did you ever see the defendant or the woman again? A I did.

Q How many times did you see the defendant altogether, I mean, on that day, the 15th? A Twice.

Q Twice that day? A Yes sir.

Q When was the second time you saw him? A Between half past six and a quarter to seven.

Q That is the first time you saw him? A The second time.

Q That is the second time you saw him? A Yes sir.

Q So that altogether you saw the defendant twice? A Yes sir.

Q On those occasions, was he alone, or with somebody else? A He was with a lady.

Q With a lady? A Yes sir, on both occasions.

Q On both occasions he was with a lady? A Yes sir.

Q Was he with different ladies or the same lady? A With the same lady.

Q On both occasions he was with the same lady? A Yes sir

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Q Now, then, how many time did you see the lady that day? A  
Twice.

Q Twice? A Yes sir.

Q On each of those occasions was she alone or with somebody  
else? A She was with somebody else.

Q With whom was she? A She was with the same gentleman.

Q With whom? With the defendant.

Q So that you saw this couple twice and each occasion they  
were ---

MR. MOORE: I object to this repetition.

THE COURT: I will permit that.

MR. OSBORNE: I will entirely comply with  
Mr. Moor's request.

Q Now, Mr. McCurry, the first occasion that you saw them was on  
what day and what hour? A Between half past five and a  
quarter to six.

Q Between half past five and a quarter to six? A Yes sir.

Q When was the second time? A An hour later, about half  
past six or a quarter to seven, around that hour, that  
neighborhood.

Q Did you ever see the defendant again? A I did.

Q When, A In the Station house.

Q What day? A The following afternoon.

Q What hour? A It must be around five o'clock.

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- Q Five o'clock in the afternoon? A Yes sir.
- Q Was that the hour? A Around five o'clock, yes sir.
- Q At the station house? A Yes sir, at the station house.
- Q At the time you saw the defendant at the station house, were other people present or not? A Why, there were.
- Q How many about? A There were about a dozen, I should say, in a line.
- Q A Dozen in a line? A Yes sir, about that.
- Q When you saw him? A Yes sir.
- Q At the time you first saw the defendant, do you recollect how he was dressed? A I recollect he had a soft old hat on.
- Q The first time you saw him? A No sir; that was in the station house.
- Q The first time you saw him? A On the 15th he had a dark suit.
- Q Go on and describe it generally? A I don't know; but a dark serge suit, a sack-coat, I should say.
- Q Do you remember what kind of a collar he had on? A No sir.
- Q Or what kind of a hat he had on the first time you saw him? A I don't know what kind of a hat he had.
- Q You did not notice his hat? A No Sir.
- Q Did you notice his hat on either occasion when you saw him.

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in the Grand Hotel? A Not on either occasion.

Q You did not? A No sir.

Q Keep your voice right up. Now, the next day, as I understand it, you saw him in the station house among a dozen other people, about, A Yes sir.

Q Did you recognize him immediately that you saw him?

MR. MOORE: Objected to as immaterial, incompetent and improper. The witness cannot bolster up his----

MR. OSBORNE: Nobody is trying to bolster up anything.

THE COURT: Wait until he finishes the objection.

MR. MOORE: The witness cannot strengthen his identifications made in the Grand Hotel, by proof of that some where else he identified this defendant.

Objection overruled; exception

Q. Do you understand the question? A. I did yes, sir.

Q Now, I show you a photograph, People's Exhibit A, and I ask you whether or not you recognize that photograph? A This looks like a photograph of the deceased.

Q It does? A Yes sir.

Q It looks like her? A Yes sir.

Q On the second occasion when you saw you saw these two people together, will you kindly tell me the circumstances under which you saw them, in your own way? A Well, when I first saw them they were between dining room Number 3 and

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Number 2.

Q Will you kindly take the diagram and point out what you claim to be dining room Number 3? A It would be about here coming north, (indicating), the second time I saw them coming through the dining room.

Q Where were you standing at that time? A I was standing about here, where I could see them coming through this door right straight through the two dining rooms into dining room Number 1.

Q Put your little dot there where you were standing at that time, about? A Right about there where I could see them coming in (indicating).

Q Now, put "M" there, the letter "M" and put "Number 2" right at the top -- you put "Number 2" right up there next to that "M". Now, you put "M" there at the first dot? A Yes sir.

Q And put "Number 1" right at the top? A Yes sir.

Q So you were standing at "M 2" on the diagram at the second time when you saw them coming from the end room, the south room of the dining room towards you? A Towards me.

Q They were coming face to face towards you? A Yes sir, face to face. When they came to the entrance of the dining room Number 1, of course, I gave them my hand as a salutation to seat them, as I supposed they were going to be seated in

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Number 1, but they did not.

Q Where did they go? A They went out into the corridor or office.

Q What door did they go through? A Out of the restaurant door door.

Q Mark it on the diagram so that we can see which door they went out of? A Out of this door right this way, I suppose ( indicating ).

Q You don't know what they did after they went through that door, do you? A No sir.

Q They went out of the door on the diagram marked "Y" into the corridor? A Yes sir.

Q Is that right? A Yes sir.

Q Now, as I understand your testimony, you saw the defendant three times within twenty-four hours, Mr. McCurdy, from five o'clock on the 15th up to five on the 16th? A That is right.

Q Did you see him again at any time?

MR. MOORE: I object to that, if you Honor please, upon the ground that it is incompetent, immaterial, and inadmissible and cannot be given in evidence for the purpose of strengthening that identification that was made at the Grand Hotel.

Objection overruled; exception.

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- Q When was the next time you saw him after the 16th of August, 1898, the defendant? A In the Court room, I think.
- Q How soon was that after? A That was the first trial; I have forgotten one.
- Q Did you see him in the Police Court? A I was not in the police court.
- Q Were you at the Coroner's Court? A No sir, I was not.
- Q So that the next time you saw him after that was in the court? A Yes sir, in the court.
- Q. McCurry, did you speak to either of these people at any time? A No sir, I did not.
- Q Who was the waiter that offered him a chair? A His name was James McGowan.
- Q He offered them a chair? A Yes sir.
- Q Do you know a man named Francis Legge? A John Legge I know.
- Q John Legge? A Yes sir.
- Q Did he have anything to do with them? A He did. I was conducting them to his table where he was standing.
- Q You were conducting them? A Yes sir.
- Q When was that? A That was on the second occasion that evening.
- Q On the second occasion? A yes sir, at a quarter of seven.

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Q Will you kindly state to the jury -- I interrupted you there -- beginning when you first saw them approaching from room Number 3 towards you. Now, will you state what they did any everything they did? A When I saw them coming into room Number 3, coming through room Number 2, I was standing in room Number 1, that is the front dining room on Thirty-first street, and I was conducting them, as I supposed they were going ----

Q Don't say you supposed; what did you do? A I gave them my hand as a salutation to follow me, and pulled a chair, and when I pulled a chair at Legge's station I looked around and found they went out into the hall, out of the restaurant door, the ladies' entrance, and that was the last.

CROSS EXAMINATION.

BY MR. MOORE:

Q You were not called, Mr. McCurry, as a witness either before the Coroner or before the Police Magistrate, were you? A I was not.

Q You were called upon both trials had in this case, were you not? A I was.

Q Did you upon either the first or second trial ever say a word about the deceased and her escort coming to a halt while passing through the dining room? A Coming to a what?

Q A halt? A I never did before.

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- Q No sir. Did you upon either of those occasions say anything about anybody stopping them and the lady saying that they did not want to eat, they were going to take the elevator, or anything of that kind? A I did not.
- Q And this is the first time that you have said anything about that in any court, is it? A It is.
- Q Upon the first trial, did you swear to this, that when they passed you the first time you saw them only momentarily? A Less than a minute I think I stated.
- Q Did you swear to this upon the first trial, that when you saw them the second time you saw them about a second? A Less than a minute the second time.
- Q That you saw them for about a second and then you turned around to conduct them to a table? A Two seconds you said in the last trial.
- Q About a second or two seconds? A Two seconds you had it; Well, it was more than that.
- Q Did you refer to that? A I have timed it since and it was more than five seconds.
- Q That was not true, then? A Sir?
- Q That was not true, then? A I said two seconds of time.
- Q Well, is that true? A About two seconds.
- Q That the second time you saw them about two seconds? A About two seconds.

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- Q Then you wheeler around to escort them to a seat, and when you got to a table where you were about to sit, they were gone; is that correct? A That is right.
- Q Now, pick up that diagram, please. The dining room Number 1 is the dining room nearest Thirty-first street, is it not?
- A Yes sir.
- Q And number 2 is the center room, and Number 3 is the dining room nearest to the elevator? A Yes sir.
- Q How are dining rooms Number 2 and 3 connected? A By an arch.
- Q How many pillars are there between dining room Number 1 and Number 2, to that arch? A It is closed by the arch.
- Q Are there any pillars to the Arch? A There wasn't any then.
- Q What? A There wasn't any pillars then.
- Q How were they separated, then? A By the arch.
- Q Dining rooms Number 1, 2 and 3? By the arch.
- Q Was it one large room? No sir, three rooms.
- Q How were they separated?

THE COURT: He has repeated that, by an arch.

- Q What do you mean by an arch; were there any pillars supporting the arch between those rooms? There are now.
- Q Were there any then? A No sir, no pillars, I don't think you call them.

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- Q What was there to support the arch? A There was a column.
- Q Well, we columns? A Yes sir.
- Q How many columns were there between dining room Number 1 and Number 2 at that time? A There was one column.
- Q Where was that; indicate, if you please, where that was?
- A Right here.
- Q Where are you sitting now, again? A Here (indicating).
- Q From where you were sitting could you see the whole of dining room Number 1? A I could not.
- Q From where you were sitting could you see any portion of dining room Number 1? A I might, yes sir, if I turned my head around.
- Q Wouldn't you have to turn completely around to see any portion of it? A No sir, I could see a portion of it without turning completely around.
- Q What portion could you see without turning completely around; indicate, if you please? A I could see this portion, right here (indicating)..
- Q The portion right where? A Here (indicating).
- Q And that would be how near dining room Number 2? A That would be dining room Number 1, and this is dining room Number 2 (indicating), there is a table there (indicating).
- Q Now, indicate, if you please, on that diagram where these people were when you first saw them upon that occasion about

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half past five? A Right here (indicating).

Q That is where you were sitting? A I was sitting at this table right here.

Q They were not no top of the table, were they? A They were very close to it.

Q How close to it? A About a foot.

Q And back of you? A Alongside of me. They passed on my left. They were travelling south and I was facing south.

Q They were travelling on your left? A They were.

Q The lady was nearest to you was she not? A She was.

Q And the gentleman was on the side furthest away? A He was.

Q You did not notice these people until they got directly, as I understand, upon a parallel with you? A On a parallel with me.

Q Then you got a side view of them, did you not? A Yes sir.

Q As they went further on towards the entrance or exit your view became more of a back view, did it not? A It would Naturally.

Q So that upon that occasion you did not see the gentleman squarely in the face? A Hardly.

Q No. And as soon as you discovered that these people were to pass out you, took your gaze off them, if you not?

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A When they got out of my view, certainly.

Q Most of the minutes that they were in your view, most of the time of the minute that they were in your view, you saw a back view of them, did you not? A A sort of a side view, their side faces.

Q For the whole time? A Yes sir, pretty near. They were going along this way and I was looking straight at them.

Q You did not see them until they got right by your side? A Yes sir.

Q Then they continued on? A Yes sir.

Q So that as they continued on your view was a back view, was it not? A It would be.

Q Then for most of the time that you saw these people upon that occasion you saw their back view, did you not? A On that occasion, Yes sir.

Q Upon the second occasion you saw them only with a glance and then turned and seated? A I was standing in room Number 1.

Q Is that correct? A With a glance? Not with a glance; I saw them longer at that time, secondly, than I did the first time, as they were in my view from the time they came into dining room Number 3 coming through Number 2 into Number 1.

Q Didn't you say here to me a moment ago that the second time

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they were in your view from only two seconds? A  
about twoseconds.

Q Then on the first occasion that were in your view for less  
than two seconds? A About two seconds,

Q So that upon each occasion you saw them for about two seconds?  
A Yes sir, I said about two seconds; it was more, but  
I said two.

Q You cannot tell what kind of a hat the woman wore, can you?  
A No sir.

Q Can you tell what kind of a waist she wore? A Lightish  
color.

Q Can you tell what kind of a skirt she wore? A Lightish  
material.

Q Do you know what kind of material? A No sir.

Q Do you know what style of a coat the man wore? A I  
should think it was a sack-coat.

Q I don't want you to think, sir. I move to strike the out.

THE COURT: Yes sir.

BY THE COURT:

Q Do you know? A A sack-coat.

BY MR. MOORE:

Q Why did you say you thought so?

MR. OSBORNE: Objected to.

THE COURT. Allowed

CASE 12161

A I am most positive it was a sack-coat

Q You are most positive? A Yes sir.

Q But you are not absolutely so? A It was a sack-coat.

Q A sack-coat? A Yes sir.

Q Are you absolutely positive of that fact? A I am.

Q Now when you went over to the police station, who went with you? A I went alone.

Q After you got over there, did you see Mr. Legge, the captain of the dining room? A No, sir; I don't remember.

Q Is that as strong as you will put it? A I do not think I did.

Q Did you see Mr. Davis, the colored bellboy? A Not to my knowledge.

Q Did you see Mr. Lenehan? A No sir.

Q The elevator boy? A No sir.

Q Are you sure? A I don't remember seeing him or any of those in the station house.

Q Don't you know, sir, that you all went into that station house together? A I know nothing of the kind.

Q And that this man was picked out by the bunch of you?

MR O'CONNOR: Objected to.

A I was the one who picked him out myself.

THE COURT: Just understand the question.

THE WITNESS: I went alone.

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Q But after you got into the station house? A I picked him out myself.

Q Were Lenehan, Davis and Legge present? A I did not see them

Q Would you see them if they had been in that room? A I think so.

Q Don't you know that at least two others selected him before you did? A I do not.

Q Were you not present when Davis did? A I was not.

MR. MOORE: I except to the remarks of the learned District - Attorney.

THE COURT: I do not recall any remark that should be noted.

MR. MOORE: I except to them made in the presence of the jury and the court.

MR. OSBORNE: Mr. Moore, said there was more in those minutes; and I say I consent to have the minutes come in evidence.

MR. MOORE: I except to that remark, if your Honor please.

THE COURT: Proceed.

MR. MOORE: That is all at this time from this witness. I will examine the minutes later, and I may desire to recall the witness. I do not desire to take

CASE 22-21



the time of the Court not to look over this record, and I suppose he will be within the call of the Court.

THE COURT: I do not know whether the District attorney will require him or not. I cannot ask him to remain. I would suggest that you take your time, Mr. Moore, and examine the record. This is an important case and we can wait.

MR. MOORE: I asked that before the witness was sworn.

MR. OSBORNE: I would suggest that the Court will inform Mr. Moore that this matter of the minutes is entirely within Mr. Moore's power and not with the Court or the District Attorney. Mr. Moore conducted the appeal in this case and is far more familiar with it than the District Attorney.

MR. MOORE: Quite so.

BY MR. OSBORNE:

Q I show you this picture. Do you recognize that? A I do. (Referring to People Exhibit Number 7).

MR. OSBORNE: I offer it in evidence.

(The photograph referred to was marked People's Exhibit &).

Q Did you ever see the woman on any other occasion, either alive or dead? A I did.

Q Where did you see her? A In room 84.

CASE 77-1

Q What time did you see her? A The following morning about nine o'clock, around the neighborhood of nine o'clock in the morning.

Q Was she alive or dead? A She was dead, I suppose; she was covered up.

Q Did you see her face? A I do not remember, very likely.

Q What is your best recollection? A I think I did see her face.

Q That is your best recollection, that you saw her face at that time? A Yes sir.

Q Is that your best recollection? A Yes sir, that is my best recollection?

Q Was there anything that called your attention to this couple of any sort; say yes or no to that? A There was.

Q. What was it? A She had a restaurant check

Q She had a restaurant check? A Yes sir charged.

Q Was it paid or not paid? A It was not paid.

Q I show you this paper which is marked People's Exhibit Number 9, and I ask you if that is it? A A dollar and ten cents, that is it.

Q Had that been called to your attention by some human being?  
A It had, Yes sir.

Q What was the name of the human being that called that to your attention? A My captain, John Legge.

CASE 22261

(The paper referred to was marked for identification People's Exhibit Number 9, May 15th, 1901.)

BY THE SECOND JUROR:

Q You have a good many couples passing through that dining room don't you, every day? A A good many, yes sir.

Q What was there about this couple that specially attracted your attention at that time before there was any cause for inquiry in regard to them? A Nothing in particular, I don't think.

Q Nothing particular about them that attracted your attention? A No sir, passing through there.

Q A great many pass through there do they? A Yes sir, during the dinner hour.

BY THE THIRD JUROR:

Q I should like to know whether the waiter can positively swear that he could recognize any couple every day in the week when they are passing through, as they pass through and as he sees them, if he could pick out the different couples?

A I don't understand your question.

THE COURT: Have the stenographer repeat the question.

(Question repeated) A I should think so.

BY MR. MOORE:

Q Now, I ask you this: Was this question asked of you on the former trial: "When you discovered them and held up your

CASE # 261

hand, as you said, to conduct them to a seat and turned you back and they disappeared, for what length of time were they in your view? A About two seconds." Is that correct?

MT. OSBORNE: We object to that, on the ground that he has sworn to that here.

THE COURT: He swore to that here to-day.

MR. MOORE: He said it was the first time they were two seconds in his view.

THE COURT: No, he said on both occasions about two seconds.

- Q "When you turned around they were gone." Now, upon the former trial, were you asked if there was anybody else in the dining room at that time? A I think I was.
- Q Were you asked if you could describe the appearance of any other person in the dining room, and did you say no? A I suppose I did.
- Q Well, is that true now that you cannot now describe the personal appearance of any other person that was in the dining room at that time? A At that time?
- Q Yes, that day? A Well why I could describe them if I came to think of it.
- Q Was this question asked you, referring to other people: "Can you describe the appearance of any other person in the dining room? and you answered, "Not particularly;" and the, was

CASE 72-61



this question asked you: "Can you say in any way?" and you said, "There was a lady and gentleman sitting at one of the tables at the window and a gentleman at another table near the window"; is that correct? A Yes, sir.

Q Was this question asked you: "Can you tell how they were dressed?" and did you say, "No, I did not pay much attention to how they were dressed, no, sir"? A I guess that is it.

Q Now, that lady and gentleman that you were then talking about dined at the Grand Hotel on this night, did they not--- this other lady that you were asked to describe and the gentleman? A I suppose so, yes, sir.

Q Don't you know that they did? I don't want you to suppose? A They dined, yes, sir.

Q So that they were before your gaze for upwards of half an hour, were they not? A I don't know.

Q Well, about that? A I don't know what time they would be there.

Q Can you give me any estimate of the time that it took them to dine? A It depended upon what they had.

Q Well, they were before your gaze for some considerable time, were they not? A Yes, sir, some minutes.

Q Yet you could not and cannot now describe them in any way? A No, sir.

CASE 2261



BY MR. OSBORNE:

Q Will you indicate on that diagram over to the right with a cross showing where the couple were when you first saw them in Room 3? A You mean, make a mark where I first saw them?

Q Where they were when you first saw them?

MR. MOORE: Objected to, on the ground that the witness has been exhausted upon that subject and has been over it on the direct and cross examination. He has been over it upon the direct examination and he was interrogated in regard to it upon the cross examination.

THE COURT: If he has been interrogated in regard to it upon the cross, the District Attorney is entitled to redirect.

MR. MOORE: Upon direct examination he was interrogated and upon the cross also.

THE COURT: I will allow it.

Exception.

Q Will you please mark upon that and place the different things you saw? This is marked "Gallery" there. Now, where do you think the doors and arches are between the rooms? A Here is a door here (indicating).

Q Well, one moment. You would not be able to see through that

CASE 7, 91

gallery, would you? A No, sir.

Q Now, that is the dining room there; you understand that?

A Yes, sir.

Q That is a gallery there? A Yes, sir.

MR. MOORE: Who is doing the swearing?

THE COURT: You must not lead the witness.

MR. OSBORNE: I am only indicating the dining room to him.

THE COURT: You have no right to lead him.

MR. OSBORNE: I am not leading him except to indicate to him what the diagram means.

Q I want you to study that until you see the relation of the diagram? A Do you want me to mark whereabouts?

Q Yes? A That is about where they were (indicating).

Q With relation to the door that they were about coming from?

A From Number 3 into Number 2.

Q That is the distance away from you? A Yes, sir.

Q Now, where were you? A (Witness indicates).

Q You were there? A Yes, sir.

Q You were about on the Thirty-first street side between Number 1 and 2; is that right? A Yes, sir; between that and this door (indicating).

Q Now, about how many feet did they walk before you turned around and you beckoned to them, about how many feet? A

CASE 77961

They were into Number 1 dining room before I turned around.

Q Then they walked entirely across Number 2 dining room? A  
Certainly.

Q So that you had them in your eyes while walking from Number  
3 into Number 1? A Yes, sir.

Q The whole way? A Yes, sir.

Q Now, one moment. At what hour did this man Legge call your  
attention to that check? A When I went in at five  
o'clock or a quarter past five-- when I went in at five  
o'clock.

Q In the afternoon? A Yes, sir, in the afternoon he is on  
there.

Q I did not ask you, sir, about what he said to you. I want  
to know the time. So then your attention had been called  
to this check before you saw the couple at any time? A  
Yes, sir.

Q Now, just answer this question yes or no. At the time your  
attention was called to that check was any description given  
of the woman? A There was.

BY MR. MOORE:

Q Upon that occasion when this lady and her escort passed  
through the dining room, did you speak with them? A No,  
sir.

Q Upon that occasion when they went through, did you make any

CASE 22,261

attempt to collect this check? A I did not.

Q Now, is it true that when you saw them upon the second occasion, you saw them momentarily, you raised your hand, beckoned to them, and turned your back, and when you had turned around, they were out of the room? A You know how close that table is.

MR. MOORE: I move to strike that out.

THE COURT: No; I cannot tell what his answer is going to be. Allow him to finish his answer.

MR. MOORE: I do not think I ought to take from the witness something that is not responsive.

THE COURT: I cannot tell that. I do not know the operation of this witness's mind.

MR. MOORE: Well, if your Honor please, we only judge the operation of a man's mind from his declarations. I ask him if that statement is true and he replies to that by asking me if I know how near that table is. That is not responsive to the question.

THE WITNESS: That will tell clearly---

THE COURT: Can you answer that question yes or no?

THE WITNESS: What was the question?

(Question repeated) A I turned my back when I got them into Number 1 room. I turned my back to lead them to this table.

Q I repeat my question; is that true? A Two seconds,

CASE 72-91

about two seconds.

Q Is it true that when you saw this couple you raised your hand, seeing them momentarily about two seconds, and turned your back to lead them to a seat, and when you turned around they were gone? A When I turned around they were gone.

Q That is true, is it? A When I turned around, they were gone.

Q Is that whole question true? A Yes, sir.

J O H N F. L E G G E, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q Mr. Legge, what is your business? A Well, I am a waiter.

Q Speak up, raise your voice? A I am a waiter.

Q Where? A I am not working at present.

Q Where did you last work? A In the Grenoble Hotel, Fifty-sixth Street.

Q Whereabouts? A Fifty-sixth street and Seventh avenue.

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

Q Did you ever work at the Grand Hotel? A Yes, sir.

Q When did you work there? A I worked there in 1897 or 1898.

Q 1897 or 1898? A Yes, sir.

Q Were you working there in August, 1898? A I was.

CASE 72261



- Q Were you on duty at the Grand Hotel at one o'clock or between one and two o'clock, on August 15th, 1898? A I was on duty between twelve o'clock at noon and twelve midnight.
- Q And twelve midnight? A Yes, sir.
- Q Now, what position did you occupy at the Grand Hotel at that time? A Assistant head waiter.
- Q Assistant head waiter? A Yes, sir.
- Q Are you what they call the captain? A Yes, sir.
- Q Well, on that occasion do you recollect any woman taking lunch there and not paying for it? A Yes, sir, a lady.
- Q What? A A lady took lunch and signed a check.
- Q A lady took lunch and signed a check? A Yes, sir.
- Q About what time was it? A Between one and two.
- Q Between one and two o'clock on August 15th, 1898? A Yes, sir.
- Q Did you ever see that lady again at any time? A Yes, sir; I saw her on two occasions after that.
- Q On two occasions after that? A Yes, sir.

MR. MOORE: Now, if your Honor please, at this time I desire to object to counsel repeating the answers of the witnesses.

MR. OSBORNE: I would not do it if the witness did not speak so low that the jury could not hear.

THE COURT: It is not necessary for the District Attorney

CASE 2231

to repeat the answers.

MR. OSBORNE: The only reason I do it is so that the jury may hear it.

THE COURT: If the jurors do not hear an answer of the witness, they will inform the Court, and I will instruct the stenographer to read it to them.

Q Now, will you state the three occasions on which you saw this woman? A Well, I saw the woman when she came into lunch.

Q The hour? A Between one and two o'clock. I saw her at between half-past six and seven in the evening, and I saw her at five minutes of twelve at night.

Q Now, on this occasion, was she alone or with somebody else? A She was alone when she came to lunch, but between half-past six and seven she had a gentleman with her and five minutes to twelve she had a gentleman with her.

Q Do you recollect what she ordered when she had the lunch?

A No, sir, I did not take the order, I did not wait on her.

Q Do you know who did wait on her? A Yes, sir.

Q Who was it? A Steve Burns is the waiter's name.

Q Now, did you see the check which she signed? A I did.

Q I show you People's Exhibit Number 9 and I ask you if that is it? A Yes, sir, that is the check.

CASE 11-21

- Q Did you see her when she signed it? A Well, I did not see her sign it, but I seen her get up from the table.
- Q What did you see her do; tell the jury what you saw her do?
- A When she entered the room do you mean? I was on duty at the dining room door, the main entrance. I looked across the room and I saw a lady coming from the back room. She passed through the back room and crossed over to the further end of the room, the easterly end of the dining room.
- Q Now, you take the diagram and show where you first saw her come in. Please study that until you get the relation of things on that diagram. A There are three dining rooms. This is the big room, this is the middle room, and this is the front room on Thirty-first stret. I was standing at this door here.
- Q Where did you first put your eye on the woman when she came in to lunch? A When she was crossing from the back room to the front room. She was in between the middle room and she crossed over to the last arch here.
- Q Get away from that diagram so that I can show the jury-- that is the entrance from the corridor into the dining room, from the ladies' entrance. Where is the entrance; put your finger on the entrance? A One entrance here and one here (indicating).
- Q That goes into the dining room? A Yes, sir.

CASE 77, 78, 79, 80, 81

- Q Is that it? A Yes, sir, that goes into the front room.
- Q Run your finger around what you consider to be the boundaries of that dining room? A I should think that is the boundary between the front room and the middle room, and that is the boundary between the middle room and the back room.
- Q What do you understand to be the boundary line of the room? A Here (indicating).
- Q Now, put your finger on where you think the woman was when you first saw her? A She was between the middle room, about here.
- Q Going along from Number 1 into what? A Taking the lines here to the front room and the second room---
- Q Did she go between two doors over to the south wall, or go into the middle room? A She came in here, as if she was green, as if she was not used to coming into a dining room.
- Q What wall was she near, going down towards Fifth Avenue? A Near the easterly wall.
- Q Near the easterly wall? A Yes, sir, the easterly wall of the dining room.
- Q She came in from what you call the middle dining room into the other dining room? A The middle dining room.
- Q From the middle into the one nearest Thirty-first street? A Into the main room.

- Q The main room is on Thirty-first street? A Yes, sir.
- Q Where did you see her? A I took her right here, placed her at the easterly window of the front dining room.
- Q You gave her a seat, did you? A Yes, sir.
- Q And subsequently you conducted the woman from the middle dining room? A Not from the middle dining room, from the entrance where she came in.
- Q From the entrance of the big dining room? A Yes, sir, the first and second.
- Q You crossed the entire dining room and seated her in a corner near the window? A Yes, sir.
- Q Were you in the room while she was eating lunch? A I was.
- Q Now, as a matter of fact, will you describe to the jury the duties of a head waiter, for, I presume, they know them? A To take charge of the room so that guests are properly treated and waited upon.
- Q Is it your duty to take notice of every human being that comes into that room and see that they get a seat? A See that they get a seat.
- Q You cannot do that without you take notice of them? A We do not notice everybody, as far as that is concerned; we do not take particular notice of everybody; we give them a seat and see that they are satisfied.

CASE 2261



Q Well, now, when this woman had finished her lunch, what did you see her do? A She got up and went through the rooms towards the elevator again.

Q Towards the elevator? A Yes, sir.

Q Did she do anything before she did that? Did she pay for her check, for instance? A That I did not know until after she had gone out.

Q You did not know that until after she had gone out? A After the waiter brought the check to me.

Q The waiter brought the check to you? A Yes, sir, and told me.

Q Never mind what he told you. You saw the check, did you? A Yes, sir.

Q You saw the name on it, did you? A Yes, sir.

Q What did you do then; don't tell us what you said? A I went to the office to find out if the lady had given her key up, and I found out at the office that the lady had not given her key up and I said, "Probably she will be back again."

THE COURT: Do not tell us what you said.

Q You reported the fact at the desk, did you? A I reported the fact of there being a charge at the desk, when the lady had gone out.

MR. OSBORNE: Never mind that. I ask to have that stricken out as hearsay.

CASE 7201

MR. MOORE: Then you should not ask it. When you get a practically responsive answer you ask to have it stricken out.

THE COURT: It certainly was not responsive to any question of the District Attorney. At this time I desire to instruct the jury to pay no attention to any remark that may be made by counsel or by the District Attorney, and you are to pay no attention to any testimony that may be stricken out by the Court.

- Q Now, Mr. Legge, after you had had a conversation with the gentleman at the desk, that is at the clerk's desk, what did you do with this check? A I left it in the waiter's charge.
- Q You left it-- in whose charge was that? A Burns.
- Q Stephen Burns? A Yes, sir.
- Q Now, did you have any talk with any other human being with regard to this check? Say yes or no to that. A Not at that time.
- Q Well, at any time? A Not to my remembrance. I don't remember now of any.
- Q You don't recollect whether you had or not? A I don't remember now any conversation I might have had. It is a long time ago and I don't remember now.

CASE 72-61

- Q Now, were you in the room-- I understand you to say you saw this woman upon another occasion? A Yes, sir.
- Q Tell the jury what was the second occasion upon which you saw her? A I was on duty at six o'clock.
- Q Yes. A I go off for an hour from five to six. At that time I came back at six and then I take charge of a station because the head waiter is in charge then. I have the station near the main entrance of the dining room, a table facing-- from the table which I had I could stand and see all parts of the room. I saw this lady coming through from the back room, from the table where I was standing. I beckoned for her to take a seat and I pulled a chair and I stood by a chair ready to seat them. The head waiter was on one side and I was on the other side. He had one chair and I held the other chair. Instead of going over to the table they passed out of the main entrance to Thirty-first street.
- Q Who was with her at that time? A The defendant.
- Q This defendant here? A Yes, sir.
- Q Now, Mr. Legge, when was the second time that you saw this woman? A About five minutes to twelve at night.
- Q Where did you see her then? A They came in the main entrance from Thirty-first street, the main entrance of the dining room and passed through the room and took the elevator

CASE 77261

I believe.

Q You say they passed out of the dining room? A I saw them pass through the room, yes, sir.

Q That was at five minutes to twelve at night? A Yes, sir, five minutes of twelve.

Q How many times on the 15th of August altogether did you see the defendant? A (No answer).

Q Did I ask you who was with her at that time-at twelve o'clock-was anybody with her in the dining room at five minutes to twelve? A The same man.

Q The same man? A Yes, sir.

Q Are you positive about that, Mr. Legge? A Yes, sir, I am.

Q Now, did you see the defendant at any other time than those two occasions that you have referred to? A I did.

Q When was the next time you saw him? A I saw him on the 16th of August at the station house.

Q Whereabouts? A At the Thirtieth street station house.

Q You did? A Yes, sir.

Q Was anybody else in the room at the time you saw him?

MR. MOORE: I object to that on the ground that it is incompetent and immaterial and cannot be given in evidence to bolster up or strengthen the identification of this defendant which was made at the Grand

Hotel.

THE COURT: I sustain the objection on the ground that it is immaterial who else was there. It may be proper for cross examination.

MR. OSBORNE: He said he did see him.

THE COURT: Yes, he said he saw him the next day.

Q How long was he in your view on the 16th of August, about?

A On the 16th?

Q Yes. A Why, I saw him at the station house and I saw him on two occasions in the station house.

Q On two occasions in the station house. About how long was he in your view altogether? A A very few minutes.

Q What was the first time you saw him on the 16th, the first hour? A It was almost about close on to four o'clock, a little after four.

Q A little after four? A Yes, sir.

Q What was the second time you saw him? A At the same time, a few minutes after that.

Q A few minutes after? A Yes, sir.

Q So then that altogether you saw him three times in twenty-four hours? A I saw him four times.

Q Four times in twenty-four hours? A Yes, sir.

Q Now, will you describe to the jury in your own way, and take that diagram, Mr. Legge, and illustrate before the jury.

CASE 7301



everything that you saw this man and woman do on the first occasion that you saw the two of them together; where were you Legge and where were they standing? A This is the main room, the front room. I was stationed here (indicating). This is the main entrance of the dining room and this is another entrance here. I was stationed in this corner at this table here.

Q You are now speaking of six o'clock, are you? A Quarter to seven.

Q What is that? A About a quarter to seven.

Q A quarter to seven o'clock? A Yes, sir. This table right here I had charge of; it was one of my tables. I had charge of the side table and when I saw the party coming from the back, I beckoned for them to come to this table. The head waiter pulled one chair and I pulled this, and I stood facing them. I saw them right from where they started when they came in and passed out.

Q You saw them from the south room into the middle room and from the middle room into the main room and out into the corridor?

A Yes, sir.

Q So you had them in full view? A Yes, sir.

Q When was the second time? Now, state the circumstances of the second time? A I was standing at this door at five minutes to twelve waiting for a party to get you, as we closed

CASE 17, 18

at twelve o'clock? I was standing here when they came through and passed me.

Q Went out towards the back or where did they disappear to?

A I suppose they went up in the elevator; I did not see them again.

## CROSS EXAMINATION

BY MR. MOORE:

Q Mr. Legge, you were examined on both of the previous trials, were you not? A Yes, sir.

Q Upon each of those trials, were you asked whether or not you could identify or call to mind any other person that you served in that dining room on the 15th of August, 1898?

A I could not identify them at the time of the trial, but I might have done so at the time.

Q But were you asked as to that? A I believe I was.

Q Upon both of those trials did you say that you could not call to mind any particular person excepting this one, the defendant and Dolly Reynolds? A I believe I said I could not at that time.

Q Were you asked this question: "Leaving aside all consideration of the woman you have been speaking of and the man that was with her at 6.45 on the night of the 15th of August, 1898, assuming that from two o'clock in the afternoon up to five o'clock you saw other ladies accompanied by gentlemen, have meals, would you be able to identify or describe any of those gentlemen or ladies," and did you say, "Not on that particular day"? A It is a long time ago; I cannot tell.

Q What is your best recollection as to that? A I do not ask the witness whether it is true or not. A I believe I said

CASE 22261

I didn't recognize anybody else.

Q On that particular day? A On that particular day, yes, sir.

Q Could you upon either of the former trials describe the dress or clothing of any other man or woman that was dined at that hotel upon that night? A No, sir.

Q Were you asked the same question before the police magistrate? A (No answer).

Q You were examined there, were you not? A I believe I was, but I--

Q Did you in response to that same question before the police magistrate say that you could not describe any other person? A I might have done so.

Q That was within a week of the happening of this crime, was it not? A I think it was about a week, yes, sir.

Q When you went over to the police station who went with you? A One or two detectives I believe.

Q Who from the Grand Hotel? A Nobody from the Grand that I remember.

Q Didn't Mr. Davis, the bell-boy, or Mr. Lenehan go with you? A I don't remember; I don't think so.

Q Refresh your recollection if you can. Upon the former trial did you swear to this; "Mr. Leland, the proprietor of the hotel, and Mr. Davis were with me when I went to the

CASE 77291

police station"? A I don't think I did.

Q What? A They might have gone, but I didn't pay any particular attention who went with me.

Q Do you now say that you cannot recall whether they were with you or not? A No, sir, I cannot.

Q Can you recall whether Lenehan was also at the police station when you werethere? A No, sir, I cannot.

Q Can you recall whether McCurry was also there? A McCurry was there, but he didn't come with me; he came up an hour after.

Q Now, when you saw this woman at 6.45 at night, did you speak to her? A I did not.

Q When you saw her at ten minutes or five minutes to twelve that night, did you speak to her? A No, sir.

Q Did you speak to the gentleman? A No, sir, I did not.

Q Did you speak to the gentleman at 6.45 or 6.30? A No, sir.

Q They were in which one of the dining roomss when you saw them at 6.45? A They were coming through from dining room Number 3 towards dining room Number 1. I saw them the whole distance from there when they were first turned into the room.

Q Where were you? A I was standing facing them.

Q Where? A In the dining room Number 1.

Q Where with reference to the Thirty-first street entrance into the

CASE 72061



dining room? A I was near the main door.

Q Where they passed-- that would be the door leading into the hall, to the Thirty-first street entrance? A Yes, sir.

Q Are you positive about that? A I am, yes, sir.

Q How far were you from that hall door? A The main door?

A Yes. A About five feet.

Q And near the wall? A No, sir. I was in the middle of the table; I had a chair pulled out looking towards the people for them to come and sit.

Q Where were you when you first saw them? A Standing at the table with my hand on the chair.

Q Then, when you first saw them, you did n't go forward to the table to show them a seat? A I was at the table.

Q You didn't stir out of your tracks? A I turned around and faced them.

Q At that time you saw them and they passed you? A I turned around and faced them and pulled the chair.

Q Is that correct, that you stood perfectly still from the time you saw them upon that occasion until they passed by you? A No, sir; I did not stand still.

Q You did not stand still? A No, sir.

Q But when you first saw them, you had your hand upon the back of the chair? A Looking towards the back room.

Q Did you do that or didn't you? A I had my right hand on the

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chair, looking towards the back room.

Q Where was this? A I stood there at the table.

Q Were you standing on it? A I was on the northerly side of the table.

Q That would be the side towards the entrance? A That would be the side towards Thirty-first street, yes, sir.

Q Wasn't there a column or a pillar of the arch that obstructed your vision into room Number 3 from where you stood?

A No, sir; there was a direct opening in a straight line.

Q When you saw them about twelve o'clock at night, where were you when you first saw them? A I was standing at the main entrance of the dining room.

Q How far from the entrance? A About a foot from the door or a foot inside of the door.

Q Where were you when you first saw them? A They passed right aside of me.

Q Who was nearest you? A The gentleman.

Q Sure of that? A Yes, sir.

Q Upon which side of the lady was the gentleman? A He was on the right-hand side.

Q Then, wouldn't he be furthest from you? A No, sir; he would be nearest to me. I was on the right-hand side of the door.

CASE 2201

- Q And immediately, then, after passing you, you would get a back view of him, would you not? A I started after them.
- Q Please answer my question. Immediately after passing you, you would get a back view, would you not? A Not immediately, but soon after.
- Q Very soon after? A Well, pretty soon, yes, sir.
- Q Can you describe the clothing that this man had on?
- A Yes, sir.
- Q What was it? A It seemed to be a black suit.
- Q What make? A Well, it was a sack coat; it might have been a blue suit, but by the electric light it seemed to be dark.
- Q Can you tell whether it was blue or black? A I could not by the electric light.
- Q What else did he have on? A As to any other part of his clothing, I could not describe it.
- Q You could not tell a single thing about what he had on except a dark suit? A I know he had a dark suit.
- Q How about the lady's wearing apparel? A I am not positive about the lady's apparel.
- Q Didn't you undertake to describe that lady's apparel on both of the other trials? A I did, but I wasn't positive about it.
- Q Did you tell the Court and jury what kind of a hat she had

CASE 11-2-91

on? A Rather a large hat.

Q Did you say she had on a large dark hat? A I don't remember saying a dark hat.

Q Would you undertake to tell what kind of clothing she had on?

MR. OSBORNE: I beg pardon. Where does he say now that she had a dark hat on at the last trial?

MR. MOORE: I asked him if he did say that.

MR. OSBORNE: Show me the page.

MR. MOORE: I do not want to be interrupted in this manner.

THE COURT: I think as a matter of fairness to the witness, if counsel desires to interrogate him as to any testimony on a former trial, counsel ought to read the question and answer to him from the book.

MR. MOORE: I think I can ask him this, if your Honor please, if he did say it.

THE COURT: You may ask it in a general way, but I think as a matter of fairness you ought to ask him in the other form.

MR. MOORE: If he does not answer the general question, I will ask the specific one.

MR. OSBORNE: I want that dark hat.

MR. MOORE: I object to the District Attorney's remarks, and take exception to them.

CASE 77-21

THE COURT: I have already instructed the jury that remarks were improper. Proceed.

BY MR. MOORE:

Q Did you upon the former trial swear that she had on dark clothes? A Or darkish brown.

MR. OSBORNE: I object to that unless that is his answer on the other trial.

THE COURT: Objection overruled.

Q Did you or didn't you? A At the first trial I said the woman had dark clothes; at the second trial I said she had brown clothes, but I wasn't positive.

Q You have said that after the suit that was exhibited here in Court was shown you, didn't you? A No, sir; I did not see the suit; I don't think.

Q Are you sure of that? A Yes, sir.

Q Wasn't this question asked you at the last trial: ; "Do you remember stating at the former trial that this woman was dressed in black?" and did you answer, "It was a darkish kind of a dress, kind of darkish brown dress she had on"?

A I believe I said that.

Q Wasn't this question asked you, and will you swear that you didn't state upon the former trial that she had on a large hat? A I won't be certain about that.

Q You might have said at the last trial that she had on a

CASE 22-01



large hat? "A I won't answer that because I am not certain." A I believe I said that.

Q You did say upon the first trial that she was dressed in dark clothing, did you not? A I believe I did.

MR. OSBORNE: I object to that question and answer.

Q Did you say that? A I did.

Q Did you say that she had on a large hat upon the first trial?

MR. OSBORNE: I object to that. The question and answer has been read from the book.

THE COURT: You have already asked him the question and he has answered it.

MR. MOORE: I beg your Honor's pardon. If I may explain, I have asked him now if upon the first trial, which I have not interrogated him upon, he did not swear to the same thing.

THE COURT: My recollection is that you asked him as to both trials; that is my recollection of it.

MR. MOORE: I was reading from the record of the second trial. I think I ought to show--

THE COURT: Proceed.

Q Did you upon the first trial swear that she had on a large

CASE 11-1

hat? A I believe I did.

Q And that she was dressed in darkish clothing? A  
Yes, sir.

Q Now, upon the former trial were you asked if you could  
describe any other person that you served in the dining-  
room on that afternoon from 2 until 6? A I was asked,  
yes, sir.

Q And did you say in reply to that that you could not?

A I could not at the time of the trial.

Q Were you asked if you could describe any other person that  
you served during the evening from 7 till 12 o'clock?

A I might have been; I don't remember.

Q Can you now describe any other person that you served there  
from 7 to 12 o'clock that night in any way? A Not now;  
it is three years ago, and that is a long time.

Q Have you ever from that day to this been able to describe  
in any Court where this case has been up, any other person  
you served on that day? A No, sir; there was nothing to  
draw my attention to anybody else.

MR. MOORE: I move to strike that out as not  
responsive.

THE COURT: Yes, it is not responsive.

Q Do you know one Ezra E. Green? A I do.

Q Did you know him in 1890? A I did.

EXHIBIT

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- Q During the time of the first trial did you and Ezra Green board at the same boarding-house? A He didn't board; he had a room in the same house where I was.
- Q Did you room together? A No, sir.
- Q Upon that trial or during that trial, or during the first trial did you have a talk with Ezra E. Green about that?
- A He might have asked me a few questions about the case, and I might have answered him.
- Q Did you have a conversation with Ezra E. Green in March '99, while the first trial was on, in which Mr. Green said to you in substance, "Legge, how can you be positive that this man Kennedy is the man you saw"? A I don't remember Green ever saying anything like that to me.
- Q Is that as strong as you can put it? A I am positive that he never said anything like that.
- Q Did you reply to that, "I don't know whether it is Kennedy or not"? A No, sir, I did not.
- Q It is Kennedy and it ain't Kennedy? A No, sir; I never said such a thing.
- Q Did Mr. Green say to you in response to that, "Then, Legge, if you are in doubt, why don't you give the defendant the benefit of that doubt"? A No, sir, I never said it.
- Q Did you say in response to that, "I have been told to keep my mouth shut"? A No, sir; I never said anything of the sort.

CASE 111

BY MR. OSBORNE:

Q You haven't kept your mouth shut, have you, Legge?

A Our business don't call for that.

Objected to; objection sustained.

Q You went down the very next day, did you? A Where?

Q On August 16th, did you or did you not? A I went down where?

MR. MOORE: Objected to upon the ground that the witness is exhausted upon that proposition. I submit, if your Honor please, that the District Attorney ought not to interrogate the witness upon a subject and then reinterrogate him after cross-examination upon that subject.

Objection overruled; exception.

Q I show you this picture, Exhibit No. 7, and I ask you if you identify that, or do you not? A Yes, sir; that is the woman; that is the deceased.

Q Did you see her at any time after that day, on the 15th of August? A I didn't see her, but I saw her body carried out of the elevator.

Q Did you see the face of the body? A No, sir.

Q You actually saw the body moved out of the hotel?

A Yes, sir.

Q Mr. Moore asked you whether you were able to identify anybody

CASE 7731

else that was in the hotel on the 15th of August, 1898, besides this defendant and this woman. Do you know of anybody else having been killed in that hotel besides this woman?

A No, sir.

Objected to; objection sustained.

THE COURT: Strike out the answer.

Q Did you have anything to call your attention to any other couple? A No, sir, nothing at all.

Q Besides those two? A No, sir.

MR. MOORE: I object to that question, if your Honor please, upon the ground that it assumes something not in evidence.

THE COURT: Objection overruled, on the ground that it has been already answered.

Exception.

MR. MOORE: I move to strike it out.

Motion denied; exception.

MR. MOORE: I cannot get an objection in until after the question has been asked.

THE COURT: I know that, but it was answered before you arose.

MR. OSBORNE: I will waive that objection, if your Honor thinks there is any merit in the other one.

CASE 111



THE COURT: I have denied the motion to strike out, and therefore I did not think there was any merit in the objection.

MR. OSBORNE: Now, Mr. Moore, will you call my attention to any place in that testimony where this man ever swore that the woman had on a black hat?

MR. MOORE: I am not here, if your Honor please, to assist the District Attorney in the prosecution of this case. I except to the District Attorney's remarks. I have called attention to such questions as I thought proper.

THE COURT: I have already instructed both counsel and the District Attorney that the jury are well-informed, intelligent men, and understand that they are to pay no attention to these side remarks. Proceed.

Q Mr. Legge, did you state at any time or at any place either upon this trial or at any former trial that this woman had a black hat on? A I don't believe I did.

Q What is your best recollection about it? A I said she had a large hat.

Q Did you say she had a black hat on? A No, sir.

BY MR. MOORE:

Q But you did say she was dressed in dark clothing?

THE COURT: He has already answered that.

CASE 77-21

JOHN A. DAVIS, a witness called on behalf of the People,  
being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q Mr. Davis, what is your business? A My business is a  
waiter and bellboy.

Q What is your business now? A At present I am a butler  
uptown.

Q Just tell us where? A 86th Street.

Q What is the number? A 316 West 86th Street.

Q What is the name of the house you live in?

A T. S. Beecher, a lawyer.

Q How long have you been employed by Mr. Beecher?

A Since September 24th.

Q This last September? A Yes, sir.

Q You are a butler now? A Yes, sir.

Q You are in no way whatever connected with the Grand Hotel,  
are you, now? A No, sir, not at all, no, sir.

Q Working for a private family? A Yes, sir, a private  
family.

Q Mr. T. S. Beecher's family? A Yes, sir, T. S. Beecher.

Q Now, on the 15th of August, 1898, what was your business?

A Bellboy then.

CASE 2221

- Q Bellboy at what place? A The Grand Hotel.
- Q How long had you been at the Grand Hotel? A For five years.
- Q Five years? A Yes, sir.
- Q Are you a married man? A Yes, sir.
- Q And live with your family? A Yes, sir.
- Q Where does your family reside? A 316 West 86th Street.
- Q Your wife lives there with you? A Yes, sir.
- Q What position does she occupy? A Cook.
- Q And you are the butler? A Yes, sir.
- Q Now, I will come back to the 15th of August, 1898. Do you see anybody in court that you saw in the Grand Hotel on the 15th of August, 1898? A Yes, sir.
- Q Whom do you see? A I see the gentleman sitting behind you there.
- Q Who is that? A Mr. Samuel J. Kennedy.
- Q Are you positive about that, Mr. Davis? A Positively.
- Q Do you recognize the importance of this occasion, sir?
- A Yes, sir.
- Q Now, will you state the circumstances under which you saw him? A On the 16th of August---
- Q Was it the 15th or 16th? A The 15th of August I went on duty about half-past five, half-past five or 5.30, it is all the same. I had a call about 6.30 up to Room 84.

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I responded to the call, and entering the door, the gentleman says to me, "Bring a bottle of wine."

Q I suppose you woke up when he said wine? A Oh, yes, certainly. I said, "All right, sir." So I ran down and took an order from the office for the bottle of wine, went to the bar and got it, and served it.

I went to the room with the wine. I asked the gentleman, "Shall I draw the cork?" He says, "No, leave the corkscrew," and I says, "It isn't necessary for the corkscrew," and I walked out. He gave me \$2 for the wine, and says, "Keep the change," and so I walked out.

Q And so you saw the man on two occasions, that is the occasion, first, when he ordered the wine, and, secondly, when you brought the wine up? A Yes, sir.

Q You had this conversation that you refer to with him?

A Yes, sir.

Q Now, do you recollect anything about how he was dressed at all, Mr. Davis? A No, sir, I do not.

Q You don't recollect that? A No, sir; nothing like that at all.

Q How soon after that did you see him, if you did see him at any time? A After that night, I saw him down at the police station.

Q When was that? A The next day.

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- Q What time the next day? A About four o'clock.
- Q Four o'clock in the afternoon? A Yes, sir.
- Q Where did you see him? A In the station house, at the 30th Street precinct.
- Q At that time? A In Captain Price's office.
- Q Where? A Captain Price's office.
- Q Was there anybody else present at that time that you saw if you recollect? A Several young men around, several of them.
- Q So, then, you saw him within twenty-four hours of these occasions that you have mentioned? A Yes, sir.
- Q When you first saw him did you have any doubt about whether it was the man you had seen or not, Mr. Davis? A Not at all.

MR. MOORE: I object to that and move to strike it out.

THE COURT: Yes.

- Q Now, did you see a woman at that time, Mr. Davis?
- A I saw the lady that was there.
- Q When was that? A The same night, the very night I entered the room to get the order.
- Q You saw her in the room with him? A Yes, sir.
- Q Did you ever see her after that at any time? A Lying on the floor, the next day.

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- Q You saw her dead body? A Yes, sir.
- Q In Room 84? A Yes, sir, in Room 84.
- Q What time in the day did you come upstairs to see her at that time? A I came on duty at 12.30. I saw her next about a quarter of one, because I came right up.
- Q What else did you see in the room besides the dead body, anything that you recollect? A I saw a bottle of wine, where I served the wine, and the glasses.
- Q Was it in a cooler when you saw it? A No, sir; I don't serve small bottle like that in a cooler.
- Q You didn't serve it in a cooler? A No, sir.
- Q You served it without putting it in a cooler? A Yes, sir.
- Q Just brought it right up? A Yes, sir.
- Q Did you bring any ice with it? A No, sir; it was a cold bottle, and I just served it at once.
- Q You didn't bring any ice with the champagne? A No, sir.
- Q And didn't bring a cooler? A No, sir; not for a small bottle.
- Q What was the price of the bottle? A 1.75.
- Q 1.75? A Yes, sir.
- Q That is all you know about it? A Yes, sir.
- Q Isn't it, Mr. Davis? A Yes, sir; that is all.

## CROSS EXAMINATION

BY MR. MOORE:

- Q Mr. Davis, when you saw this party, the deceased, you saw

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her in Room 84? A Yes, sir.

Q Did you ever see her in any other place? A The lady, no, sir.

Q The gentleman? A Upon the 15th, no, sir; only in the room.

Q When you went to the room the first time, the lady was standing up, was she not? A Yes, sir.

Q Before the mirror? A No, sir; by the table.

Q And the gentleman was sitting down upon the sofa in the room, was he not? A Yes, sir.

Q And was reading a newspaper? A Reading a newspaper.

Q Did he have the newspaper before his face? A He did.

Q So that you didn't see the gentleman's face upon that occasion, did you? A I did not, sir.

Q So that you never saw the gentleman's face but once, did you? A But once.

Q And that was when you took up the wine? A Yes, sir.

Q What kind of champagne was it? A Mumm's, I think.

Q Did you swear before the Coroner's jury that it was Pommery? A I did first, but I changed it.

Q You changed that on the last trial, didn't you?

A Yes, sir; Mumm's, I think.

Q Now, when you went up the second time to deliver the wine, you did not see the defendant only for a moment, did you?

A Just for a moment.

CASE 22,911

- Q Was he still sitting on the sofa? A No, sir; when he gave me the money, he didn't sit on the sofa.
- Q You saw him for a moment, took the money, and passed out?
- A Yes, sir; passed out.
- Q That is the only time that you ever saw him until you saw him at the station house? A That is the only time.
- Q Now, when you saw him at the station house, wasn't anybody from the Grand Hotel with him? A With me?
- Q With you? A Yes, sir.
- Q Who? A I think there was Mr. Leland, and the head waiter, McCurry, and Captain Legge, and I think it was Pat Lenehan. That is about all, I think.
- Q You were the last one, were you not, to identify the defendant? A I think so; I think I was.
- Q Do you recall who was the first one? A No, sir; I cannot recall that at all.
- Q So that Lenehan, the elevator boy, the hotel waiter, McCurry, the dining-room man, Legge, and yourself, were present?
- A Yes, sir, present.
- Q Now, that night, Mr. Davis, did you wait upon any other guests of the hotel? A Yes, sir; I went to several rooms I remember of Room 97.
- Q Is that the only room that you remember of going to upon this night? A Well, that was because it was nearer--

CASE 201

Q Never mind the because-- did you not upon that night wait upon a large number of other people? A A large number of other people.

Q Upwards of twenty-five? A Yes, sir, twenty-five or thirty yes, sir, something like that.

Q Can you describe the dress of any single other person that you served that night? A No, sir; I could not, because the party---

Q I object to the because.

THE COURT: Yes.

Q A tip, is not a thing unknown to a bellboy, is it?

A No, sir, not at all.

Q These are things that you get frequently, are they not?

A Yes, sir.

Q And it is the man that does not give one that you generally look at, is it not? A Not at all.

Q So that you won't be annoyed with him the next time?

A Not at all, no, sir.

Q Well, you are quite as apt to notice that man as the other, are you not? A Not at all; I don't think I would notice him at all after that.

Q But I mean his face? A No, sir.

Q Afterwards you would not notice him? A Yes, sir, in a general case-- in the position of bellboys they don't do that.

CASE 111

Q Now, before the Coroner and upon the first trial were you asked to describe the defendant? A Yes, sir.

Q Did you say he had a dark, very, very dark mustache?

A Well, I don't think I put the three very's like that; I put the dark mustache.

Q Didn't you use the words, a very, very dark mustache?

A I don't think so; I am not sure of that, Mr. Moore, now.

Q Did you serve upwards of twenty-five people? A Yes, sir.

Q Not one of their features or dresses you can recall?

A No, sir, I could not.

Q Well, do you think that the defendant has a very dark mustache? A Well, he has not a dark mustache now; at the time he had a little dark mustache. It is a little light at present.

Q The man that you saw in that room at that time had a dark mustache, had he not? A Yes, sir.

Q A very dark mustache, had he not? A He had a dark mustache.

Q Now, was there anything in the features of the man you saw in Room 84 upon that night that particularly impressed you?

A Oh, he had very sharp features; that I would notice.

Q Very sharp features? A Yes, sir; very sharp; I would notice it.

Q Has the defendant in your judgment very sharp features?

A They are; I rather think so, yes, sir.

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Q The man you saw had sharp features? A Yes, sir.

Q Nothing irregular in the features that you recall?

A Not at all.

Q Nothing out of the ordinary in the features that you recall?

A No, sir.

Q Was there anything out of the ordinary in his dress?

A No, sir.

Q That you now recall? A No, sir.

Q Could you tell what dress he wore? A No, sir; I could not.

Q Anything at all about it? A No, sir; not his dress at all.

Q Could you tell anything about the dress the lady wore?

A No sir.

Q Nothing at all? A No, sir, not at all.

Q Could you describe the features of the lady? A I think the lady had a round face, very round, and very handsome around the neck. She was very handsome around the neck, a very pretty lady, very pretty.

Q What was she as to hair-- what was the color of her hair?

A I don't know anything about the hair.

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

Q You don't know whether it was very light or curly, do you?

A No, sir.

IN 22  
CASE 22

- Q Now, upon the last trial did I ask you this question, Mr. Davis, and did you answer it as follows, "And did you say (referring to the examination before the Coroner) that that man was a man with a very, very dark mustache," and did you say, "I did at that time." A Not a very, very; I did not make that expression three times.
- Q No, twice; I said a very, very dark mustache. A No, sir; not very, very.
- Q Did you answer, "I did at that time"? A No, sir, I didn't say that at all, that very, very.
- Q In answer to a question I put? A I said a very dark mustache, Mr. Moore.
- Q But was this question asked you and answered in the manner that I have asked you, "Did you say that it was a man with a very, very dark mustache", and did you answer, "I did at that time." A Well, you cut out the very part. I say he had at that time a very dark mustache.
- Q Did you answer that question in that way? A Well, perhaps I did.
- Q And was the next question asked you, "Do you say now that the defendant has a very, very dark mustache?" A Not at this time.
- Q Did you answer, "It looks kind of light to me now"? A Yes, sir.

CASE 7701

BY MR. OSBORNE:

Q Mr. Davis, you see the man before you, do you? A Yes, sir.

Q Is there anything about that man's mustache that makes you believe that that is not the man?

MR. MOORE: I object to that, if your Honor please.

THE COURT: I will allow it.

MR. MOORE: If your Honor please, I don't think the witness can give the operation of his mind. I would suggest this; he has a doubt that this is the man. He is asked to describe, he did describe him. He is asked to describe the man he saw in that room. He said he was a man with a very dark mustache. Now, then, it is for the jury to say whether or not there is anything in his evidence that leads them to believe that he is or is not the same man, and this witness has not the right to form conclusions for the jury.

THE COURT: I understand that. I think this is a proper question, and I will allow it.

Q (Question repeated) A No, sir.

Q Mr. Davis, at the time you were asked those questions about his mustache where was it, before the Coroner's court or the police court? A Now, I don't recollect that, Mr. Osborne. Let me see, the Coroner's court-- that is 54th

CASE 7001

street, isn't it?

Q That is the police court. A Yes, sir; I think the Coroner's court.

Q The Coroner's court is down in this building, here.

A I think that is it, right here in this building.

Q It was either one or the other? A Yes, sir, either one of the two; I don't remember which court it was.

Q It was either one or the other? A Yes, sir.

Q At that time the defendant was present? A Yes, sir.

Q You were looking right at him at the time? A Yes, sir.

Q At the very time you answered the questions about the mustache? A Yes, sir.

Q And at the time the gentleman called on you to describe the man, you were looking right at the defendant at the time?

A I was.

BY MR. MOORE:

Q Did you see his mustache? A Oh, yes, I saw his mustache.

Q You can see it now, can you? A Yes, sir, I see it.

FREDERICK D. CHEEKS, a witness called on behalf of the People,  
being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q Mr. Cheeks, what is your business? A Hallman.

Q Speak out a little louder? A Hallman.

CASE 77091

- Q Where? A At the Grand Hotel.
- Q How long have you been there? A Five years.
- Q Are you there now? A Yes, sir.
- Q What hall are you in, any particular one? A One on the main floor at present.
- Q The main floor? A Yes, sir.
- Q Now, in August, 1898, were you in the Grand Hotel?
- A Yes, sir.
- Q On the 15th day of August were you there? A Yes, sir.
- Q Were you located on any particular hall during that time?
- A Yes, sir, I was on the fourth floor; I was at the present time. Now, I am captain, but then I was a regular hallman.
- Q At that time were you on a particular hall? A No, sir.
- Q Well, on the afternoon of that day what time did you go on duty? A I went on at 6 o'clock in the morning of August 15th.
- Q How long did you stay on duty? A 12.30 that day.
- Q At 12.30 at night? A That day.
- Q Did you go on again? A Yes, sir, at 5.30 in the evening.
- Q And stayed on how long? A I went off at 12.30 that night.
- Q 12.30? A Yes, sir.
- Q Now, did you have any occasion at any time to notice the occupants of Room 84? A No, sir.
- Q On the fourth floor? A No, sir; I noticed a party in the

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hall.

Q Tell all you saw. A I noticed a party in the hall.

Q What time was it? A It was about 12 o'clock at night.

Q Tell what you saw, tell the jury, the twelfth man.

A I was waiting on room Number 87 1/2, a sick gentleman. I was coming, leaving 87 1/2, and I noticed a party turning around the corner, under a light, and as I got to the hall, the elevator boy motioned to me like that (indicating), and I stopped to notice, and the gentleman was walking with his hand down, and the lady was in front, and the lady put the key in the door and they entered.

Q What door was that? A 84.

Q Room 84? A Yes, sir.

Q A man and a woman? A Yes, sir.

Q About twelve o'clock? A Yes, sir.

Q Now, did you recognize the man and woman? A Only just noticed how they were dressed from a back view; that is all.

Q You were not able to recognize the man or woman? A No, sir.

Q Do you recognize the woman at any time? A No, sir; I just noticed the clothing, the color; that is all.

Q Well, the woman, did you ever see her again after that night? A No, sir.

Q Did you see her dead body? A Yes, sir.

Q Well, where did you see that? A I seen it as I went to the

CASE 11-2-61

door with a message that was sent up from the hotel reporters, and she was lying, I seen her lying up on a table, and something, I don't know what it was, as I went to the door with cards from the hotel reporters.

Q That did not enable you to recognize her? A No, sir.

Q Now, will you just describe to the jury as nearly as you can how the two people were dressed? A The lady had on a light waist and skirt that looked like a crash skirt; and the gentleman had on a dark sack suit.

Q Did you notice anything else? A And a light hat.

Q Did you notice what kind of a hat it was? A No, sir; it looked like a straw hat.

Q Now, that is all you recollect about it, is it? A Yes, sir.

Q That is all you know about it, is it? A Yes, sir.

Q Did you go down to the station house the next day?

A No, sir.

Q Did you identify the defendant at any time? A No, sir.

Q Never have identified him? A No, sir.

Q You are not able to identify him to-day? A Well, I know him, being pointed out now.

Q You would not identify him as the man? A No sir.

N O C R O S S E X A M I N A T I O N.

CASE 221

MARGARET ADAMS, a witness called on behalf of the People, being  
duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q Mrs. Adams, what is your business? A I am cook, sir.

Q A cook? A Yes, sir.

Q How many years have you been a cook altogether? A Well, a  
good many years.

Q Somewhere in the neighborhood of about forty years?

A No, sir, not quite that.

Q Not quite so long as that? A No, sir.

Q You were born in Charleston, South Carolina? A That is  
where I was born.

Q When did you come North? A I have been here twenty-four  
years.

Q Twenty-four years up here? A Yes, sir.

Q At one time you lived on the corner of Columbus Avenue and  
58th Street, New York City? A Yes, sir.

Q At the corner of 58th street and Columbus or 9th avenue, is  
that right? A Yes, sir.

Q How long have you lived there at that corner? A I have  
been there three years.

Q Three years? A Yes, sir.

Q Whom did you live with? A I lived with Mrs. Reynolds.

Q With Mrs. Reynolds? A Yes, sir.

CASE 17291

Q Well, wasn't there a Mr Reynolds there too? A Yes, sir.

Q Then you lived with Mr. and Mrs. Reynolds? A Yes, sir.

Q Did they have a dog there too? A Yes, sir, they have a dog.

Q What was the name of the dog? A Yokie.

Q Now, do you remember the 15th of August, 1898?

A Yes, sir.

Q Did you see Mrs. Reynolds that day? A Yes, sir.

Q What was her first name? A I can't remember her first name; I never called her anything else but Mrs. Reynolds; that is the only name I ever heard of.

Q Do you recollect whether it was Emeline or not? A That is what the mother said, Emeline Reynolds.

Q Emeline Reynolds? A Yes, sir.

Q Her mother said? A Yes, sir.

Q Now, do you remember. Monday, August 15th? A Yes, sir.

Q Now, did she leave there that day? A Yes, sir.

Q What time of day did she leave? A She left at eight o'clock in the morning.

Q At eight o'clock in the morning? A Yes, sir.

Q Did you see her at any time that day? A Yes, sir.

Q About what time did you see her? A She came back about three o'clock.

Q About three o'clock? A Yes, sir.

CASE 22, 21

Q Did you see her another time that day? A She came back in the evening.

Q About what time? A Well, I think about near-- anyhow I think it was about near eight o'clock.

Q About eight o'clock? A Yes, sir.

Q Was it after dinner? A Yes, sir, it was after dinner, because she told me to have dinner ready.

Q But it was after dinner? A Yes, sir, after dinner.

Q Had you cooked the dinner? A I cooked the dinner and had it ready.

Q You cooked the dinner and had it ready? A Yes, sir.

Q Did she come to eat the dinner? A No, sir.

Q About what time did she usually have dinner? A We have dinner usually at six o'clock, or half-past six o'clock.

Q Half-past six o'clock? A Yes, sir.

Q When she left you at three o'clock, did you expect her home to dinner? A She told me to get dinner; yes, sir, I expected her home to dinner.

Q And in consequence of that did you cook the dinner?

A Yes, sir.

Q You cooked the dinner and had it all ready? A Yes, sir.

Q But she didn't come home to dinner? A No, sir, she didn't come home to dinner.

Q When she came home about eight o'clock about how long did she stay? A She didn't stay long.

CASE 72091



- Q Mrs. Adams, do you recognize that? A Yes, sir, that is her pocket-book.
- Q That is her pocket-book? A Yes, sir.
- Q Do you recognize that? A Yes, sir, that is her bag.
- Q Where did she get that bag? A From her mother.
- Q When did she get it? A Sunday night.
- Q Sunday night? A Yes, sir.
- Q Did you ever see that bag before Sunday night? A I never seen it until she came home Sunday night from her mother's.
- Q Did she have that bag with her on Monday when she left?
- A Monday morning, yes, sir.
- Q Was there anything in the bag? A I couldn't tell you.
- Q Did you see anything in it? A I never didn't see the bag until I seen it in Court, but I saw she had it when she went out that day.
- Q Now, when was the next time after eight o'clock on Monday, August 15th, that you saw Mrs. Reynolds? A I saw her on the 16th.
- Q Whereabouts? A In the Grand Hotel.
- Q Where did you see her? A I seen her on the floor.
- Q Was she alive or dead? A Dead.
- Q What time of day did you see her? A I think it was about near 12 o'clock when I went there, when the officer came after me and carried me there.

CASE 11261

Q During the week prior to her death did you see anything about her at all, did you notice anything about her face or anything? A Well, during the week, yes, sir, she had a pain in the face.

Q She had what? A A pain in the face; she had been to the dentist.

Q Did she have a toothache? A She went to the dentist's to have her teeth fixed the Friday before that, and then Wednesday night her face hurt her so.

Q Was it a toothache? A Yes, sir.

Q During that week? A Yes, sir.

Q Before her death? A Yes, sir.

Q Now, Mrs. Adams, how long have you lived with her altogether?

A Me, sir?

Q Yes. A I lived with her two years and going on three years.

Q Going on three years? A Yes, sir.

Q Give us an idea as to what kind of a girl she was?

A Well, I couldn't give you any idea what she is; she said she was married, she told me always---

Stricken out.

Q She lived as a married woman? A Yes, sir.

Q That is all you know? A Yes, sir, that is all I know.

Q Now, what sort of a person was she, describe her as near as you can? A Well, the kind of a person she was, how do

CASE 77061

you mean, what kind of a person?

Q Her looks? A A very nice young lady, a very plump, fat face, a round face, and she was a very good-looking young lady, a good figure.

Q A very good figure? A Yes, sir, and her manners was very good to me; she treated me all right.

Q Her manners were good to you? A Yes, sir.

Q High-tempered? A When I was there, her manners was very good to me; she treated me all right when she was alive.

Q Was she penurious or did she love money?

Objected to; objection sustained.

MR. OSBORNE: Upon that particular point, if I may make an argument to the Court, with deep respect, I would say that I was allowed to show that in the case of the People against Hampton, which went to the Court of Appeals.

THE COURT: What case?

MR. OSBORNE: The Hampton case. I was allowed to show in that case of the People against Hampton, which was affirmed eventually by the Court of Appeals that a woman had a peculiar fondness for gold coin. The court below permitted me to do that. It afterwards went up to the Court of Appeals, and the Court of Appeals in commenting upon that case,

CASE 111

referred to that characteristic of the deceased.

THE COURT: Your question is objectionable as to form.

MR. OSBORNE: I do not deny that I may be wrong even in the substance.

THE COURT: I said as to form.

MR. OSBORNE: I do not say that I am right at all, but I am merely calling your Honor's attention to that case.

THE COURT: I will send for the case. I will sustain the objection as to form.

CASE 223 H



Q Now, did this lady live there, as you say, as a married woman? A Yes, sir.

Q Did she ever entertain company at all in her apartments?

A No, sir, she didn't have no company there but her mother and brother.

Q Her mother and brother? A Yes, sir, the oldest brother.

Q Did she go out at night to any place?

MR. MOORE: I object to that, if your Honor please, as immaterial, incompetent and inadmissible as against this defendant.

THE WITNESS: Yes, sir, she goes out---

THE COURT: Objection sustained. Answer stricken out.

Q Mrs. Adams, do you remember whether this woman took lessons or not of any kind? A Yes, sir.

MR. MOORE: I object to that, if your Honor please, as immaterial.

THE COURT: Objection sustained. Answer stricken out.

Q Do you know where she kept her jewelry bag? A I know where I found it.

Q Not where you found it, my dear madam; do you know where she wore it? A Yes, sir.

Q Where? A She wore it around her waist.

CASE 22-21



Q Around her waist? A Yes, sir, underneath her dress.

Q Did she carry much jewelry with her, as a rule? A Carried all she had.

Q In that bag around her waist? A Yes, sir.

Now, after she was dead, did you find that jewelry bag?

A Yes, sir.

Q Where did you find it? A I found it in her closet.

Q Where? A In her closet.

Q In one of her closets? A Yes, sir, in the closet in the dining room, where she would keep the sugar, the coffee and the tea; like a storeroom, like.

Q You turned that over to the police, didn't you? A I did not turn it over.

Q Did anybody turn it over to the police, do you know?

A I sent word to the gentleman that is called Mr. Reynolds; he was over at Long Branch for the summer.

Q By the way, did you see him at any time during the week previous to her death? A No, sir.

Q He was not there? A He was not there; he left the Saturday morning before that.

Q He was at Long Branch? A Yes, sir, at Long Branch for the summer.

Q And he had not been there for a week before? A He hadn't been there until the death of her; they telegraphed to him.

Q Telegraphed to him? A Yes, sir, at Long Branch, that she

was dead, and then he came over, but he didn't come to the house, he went to the station house.

CROSS EXAMINATION

BY MR. MOORE:

Q Did you ever see this man, Doctor Kennedy, at Dollie Reynolds' house, or Mrs. Reynolds' apartments? A I never seen him in my life; I never seen him until I saw him in court.

Q You say she was in the habit of wearing her bag of jewels about her waist? A Yes, sir.

Q From the time she left her place on Monday afternoon of August 15th, until the jewels were found, had this man ever been in her house? A I never seen the man.

Q You were in the house during that week, were you not?

A I was there a whole month by myself; I never seen anyone.

Q Now, with regard to that jewelry bag, did anybody come to her apartments during that week after she was killed?

A No, sir.

Q Any police officer? A No, sir.

Q Wait now, and listen to me? A I am listening to you.

Q Did any police officer come to Mrs. Reynolds' apartments during the week after she was killed? A Well, I was there.

Q In search for her jewelry? A Well, I don't know if

CASE 111

they searched for the jewelry, but they were searching the house.

Q Did they search the house upon several different occasions during that week? A Yes, sir. But they didn't went into that closet.

Q Just answer the question, and never mind that; did the police officers----? A Yes, sir.

Q --- Search that house upon several different occasions during that week, for those diamonds? A Well, no, sir, nobody searched, not that I know of, nobody searched the house for the diamonds.

Q Did they make any inquiry for the diamonds, that you know of? A No, sir, they didn't make no inquiry for the diamonds that I know of.

Q They did not find any diamonds, did they? A They didn't find any, no, sir; they didn't go into that closet.

THE COURT: Strike that out.

Q You finally found the diamonds, did you not? A I went into the closet to get some sugar.

Q You found them in the sugar bowl, did you, in the closet?

A No, sir, I didn't find them in the sugar bowl; I found them behind the sugar can.

Q In the china closet? A No, sir, where we kept the groceries.

CASE 1221

Q And those diamonds were in that closet where you kept the groceries, in a little bag that she usually wore about her waist? A Yes, sir.

Q And back of the sugar bowl? A Yes, sir, right behind the sugar bowl, up in the corner.

Q Was the string by which they were attached to her waist there? A Yes, sir, the string was there, and she had it done up with a safety pin; she fixed it up herself.

Q Did you notice whether or not the string had been cut or broken? A No, sir, I didn't notice just how she had it; it was rolled up and pinned up with a safety pin; it was right behind the sugar bowl, and I never touched it.

Q Did you notice whether or not--- ? A No, sir, I didn't notice.

Q -The string had been cut or broken? A No, sir, I didn't notice.

Q Did you notice whether or not there was a cut in the string?

A I don't know; no, sir; I didn't know it; I didn't have it in my hand; I didn't touch it.

Q Well, you found it, did you not? A Yes, sir, I seen it, and I knew it, because I handled it every day when she was alive.

Q You found it? A Yes, sir.

Q When you found it, what did you do with it? A I done nothing with it.

Q What became of it then? A Well, I sent word to the gentleman called Mr. Reynolds, which was her husband, over at Long Branch.

Q There was a gentleman? A He sent two officers there after it.

Q You sent word to Mrs. Reynolds' husband? A Yes, sir. Now, do you know whether or not he had been in her apartments during that week? A He had not been there.

Q During the week after her death? A No, sir, he had not been there.

Q Do you know whether he had or not? A No, sir, he hadn't been there; I was the only one there.

Q Well, you were not the only one there? A I was there; nobody in that house after her death but me for one month.

Q Why, there were police officers there? A Yes, sir, the police.

Q Police officers? A Police officers were searching in every hole and corner, but they didn't go in the docket.

Q And strangers were there who were not dressed in uniform?

A What is that?

Q (Question repeated) A I know it.

Q Then there were strangers? A Because I was there.

Q Then there was somebody there then, during that week?

CASE 111



A Yes, sir, while the officer was there; because he slept there; he slept there every night for a whole week, I think.

Q Were not there a number of other people during that week there? A Yes, sir, officers.

Q Strangers to you? A Yes, sir, officers.

Q Do you know whether they were officers or not? A Yes sir, they were officers, because they told me so; they told me they were officers.

Q What is that? A They told me they were officers; if they were not officers they couldn't come in there.

Q Is that all you know about it-- what they told you?

A Yes, sir.

Q There were men who came there? A They were officers.

MR. MOORE: I understand that, and I ask if all she knows about it is what they told her.

THE COURT: She adds to that that they were officers.

Q All you know about their being officers is what they told you? A Yes, sir, but they were officers just the same; nobody else could come there but officers.

Q All during that week there were a number of men in that house who were not dressed in a uniform of police officers?

A I don't mind about that; they were officers.

BY THE COURT:

Q Were those men dressed in police uniforms? A No, sir,

dressed in citizens' clothes; some had on blue clothes, but they were officers.

BY MR. MOORE:

Q Were there men there also who represented themselves as reporters for the newspapers? A No, sir, I didn't let them come in.

Q What is that? A I didn't let them come in; the reporters was there, but I wouldn't let them come in. I told them that if they wanted any news they must go to the hotel where the dead body was, there was no news in that house. I hadn't any for them. The reporters was writing up, but I didn't let them come in.

Q Right along there during the week? A Yes, sir.

THE COURT: She says there were reporters, but she did not let them come in.

Q Were not reporters and men coming? A I never let them come in; I told them there was no news in that house; if they wanted any news they must go to the hotel, because I didn't have any for them.

Q Now, let us stop a minute. This man, Mr. Reynolds who lived with Mrs. Reynolds----? A Yes, sir.

Q -- And Dolly Reynolds quarreled often, did they not?

A What is that?

Q They quarreled often, did they not? A I don't know; they

was man and wife, and I hadn't nothing to do with it; I don't know nothing about that; I couldn't be responsible for that.

Q Did not you hear any quarrels between them? A No, sir, I don't think there were any quarrels. I am in my room and they were in the front.

Q Did you ever see the deceased with her face bruised and blackened? A No, sir, I never seen her face bruised or blackened in my life; her face never was.

Q Sure about that? A Yes, sir, sure about that; her face was never bruised or blackened.

Q You never heard any disturbance in that room immediately preceding the husband's going? A The husband never go away.

Q At any time the week, before that? A He was in Long Branch; he didn't have no fuss about it; he said he went with his mother.

Q Did not they have a quarrel before he went away, about the diamonds? A I don't know; if they had, they never said nothing to me about it.

Q Did you know that before he went away Mr. Reynolds wanted her to give back the diamonds that he had given her?

A I don't know.

Q What is that? A I don't know anything about it.

WENT  
CASE 2-91

Q You don't know? A No, sir, because that was their business and they didn't tell me about it.

Q Did you hear them quarreling about it in the flat? A No, sir, I never heard them quarrel about it.

Q You say she went away in the morning at what time?

A She went away in the morning; she told me to wake her up about six o'clock. She told me to call her at eight o'clock.

Q What time did she leave the apartments? A She had her breakfast. She took her breakfast before she went out.

Q Did she leave before twelve o'clock? A Yes, sir, she left before twelve o'clock.

Q How much? A Well, I don't know; I didn't keep any account of it; she went before twelve o'clock.

Q It was about twelve o'clock, was it not? A May be; I don't know; I didn't keep account of it; I know she went.

Q You do not want to be understood as saying that she left about eight o'clock that morning, do you? A She had her breakfast at eight o'clock.

Q She did not leave about eight o'clock? A No, sir. She had her breakfast at eight.

Q You were sworn upon the trial once before? A Yes, sir.

Q In that trial, did you swear to this: "She left the house between eleven and twelve o'clock"? A Well, perhaps she did.

- Q Did you swear to that? A That is very near it.
- Q That was very near the time she left? A Yes, sir, that is very near the time she left.
- Q And came back about three o'clock? A Yes, sir, three o'clock.
- Q Now, upon the former trial, did you swear to this, that she came back to your house between six and seven o'clock?
- A Yes, sir, I think about that she came.
- Q What is that? A I think about near that time she came back; I said so, yes, sir.
- Q Now, after refreshing your recollection, wasn't it between six and seven o'clock that she came back to your house, rather than after eight o'clock? A Well, I think it was more eight o'clock than it is six or seven, because it was very late when she came in; I put it at six or seven o'clock, as it was after the dinner hour.
- Q Now, Mrs. Adams, wait a moment. You were examined before the Coroner's jury, were you not? A Yes, sir.
- Q You were examined before the Police Magistrate, were you not? A Yes, sir.
- Q You were examined upon the trial had in March 1899, were you not? A Yes, sir.
- Q Did you not upon three of those occasions say that she came back to the house between six and seven o'clock? A Between six and seven o'clock, that is what I put it to.



- Q Why do you put it at eight now? A Because I think it was later than that, but of course I said six or seven; I won't eat my words, I did say so.
- Q What caused you to change your mind? A Nothing at all.
- Q No recollection of any occurrence has caused you to change it from between six and seven to seven or eight? A No, sir, nothing at all.
- Q Is your memory better now as to the time when she came back than it was the next week after the occurrence? A I don't know nothing about it, whether my memory is better or not.
- Q What is that? A I don't know whether my memory is better or not.
- Q Would you not be likely to remember as well before the Coroner what happened the week preceding as you would now, three years later? A Yes, sir.
- Q Before the Coroner you recollect you swore it was between six and seven o'clock? A Yes, sir, that is what I said.
- Q Now, what is your recollection as to whether it was between six and seven o'clock or eight and nine?

MR. OSBORNE: About eight. She did not say between eight and nine.

THE COURT: She said about eight.

THE WITNESS: I said--- that is what I said.

CASE 2291

Q You cannot tell why that change has been made? A No, sir,  
I don't care to have any changes at all.

BY MR. OSBORNE:

Q Mrs. Adams, one moment. You recollect, do you--- Are you  
positive that you expected her home for dinner that night?

A Yes, sir.

MR. MOORE: Objected to.

THE COURT: Why repeat it?

MR. OSBORNE: I do not know that it is necessary  
at all, except that it throws a little light on the  
time.

MR. MOORE: Her expectations do not matter. I  
object to it.

BY MR. OSBORNE:

Q Now, what had you done with the dinner? I think I did not  
ask you that.

Objected to as immaterial.

Objection sustained.

MR. OSBORNE: I want to show what her conduct  
was.

THE COURT: That is not material.

BY MR. OSBORNE:

Q I will ask this question: Did you put the things away?

Objected to. Objection sustained.

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The Witness: She told me to have my supper.

BY THE COURT: Stop.

The Witness: All right then, I won't say nothing.

BY MR. OSBORNE:

Q Was she there when the dinner was ready?

MR. MOORE: Objected to, if your Honor please,  
as immaterial and incompetent..

Objection overruled; exception.

MR. MOORE: It calls for a conclusion of the  
witness.

Q Was she there when the dinner was ready that evening?

A Yes, sir, when she came the dinner was ready-- when she  
came the dinner was ready.

Q What I want to know is, was she there at the usual dinner  
hour when the dinner was ready? A No, sir.

MR. MOORE: One moment. I object to the ques-  
tion, upon the ground that it is incompetent, imma-  
terial and inadmissible as against this defendant.

Objection overruled. Exception.

The Witness: She was not there.

Q What is that? A She was not there at the dinner hour.

Q How long had you been waiting for her?

Objected to. Objection sustained.

The Court admonished the jury in ac-

CASE 12361

cordance with the provisions of Section 415 of the Code of Criminal Procedure, and took a recess until 2 o'clock.

AFTER RECESS:

MARGARET ADAMS, recalled.

BY MR. OSBORNE:

Q I show you a bag, Mrs. Adams, and I ask you if that is the bag that this woman had? A That is her bag.

Q That is her bag? A Yes, sir.

MR. OSBORNE: I offer that in evidence, if your Honor please.

(The bag referred to was marked "People's Exhibit D, May 15th, 1901")

Q Mrs. Adams, when this young woman came home that night, Mrs. Reynolds, did she eat her dinner? A No, sir, she had dinner before she came in.

Q I cannot hear you. A She did not take no dinner home; she had dinner before she came in.

MR. MOORE: Objected to.

THE COURT: Strike out the latter portion.

BY MR. MOORE:

Q That bag that has been shown you and marked as "Exhibit D" is the bag in which Mrs. Reynolds kept her diamonds, is it not?

A Yes, sir.

EXHIBIT D  
MAY 15 1901  
CASE 111

Q Do you know whether or not she had diamond earrings?

A Yes, sir, she had them in her ears.

Q What is that? A She had diamond earrings in her ears that same day.

Q In each ear? A Yes, sir.

Q Those were solitaire diamonds? A Well, I don't know, but I know she had them in her ears.

Q Do you know whether or not she had those diamonds in her ears upon the day? A Yes, sir, she had them in her ears when she left the house.

Q The last time you saw her alive she had those rings in her ears? A Yes, sir, she had the, in her ears.

MR. MOORE: Does that bag contain the diamonds?

MR. OSBORNE: Some diamonds found in the house.

MR. MOORE: No diamond earrings there?

MR. OSBORNE: I have not looked at it.

MR. MOORE: Suppose we find out.

Q Mrs. Adams, was the man whom you knew as Mr. Reynolds a man whom you have since learned was Maurice Mendham?

A Yes, sir.

THE COURT: One moment. Before those articles are laid out on the desk. As I understand it, the production of these articles is called for by the defense?

CASE 2291



MR. MOORE: No, sir. I wanted to know whether the diamond earrings were there.

THE COURT: Then place all those things back in the bag.

MR. OSBORNE: Yes, sir, I will do so instantly. I understood they were called for by the defense.

THE COURT: So did I.

MR. MOORE: I desire to know whether or not the diamond earrings are there. I have no objection to their all being produced.

MR. OSBORNE: If he has no objection I will produce them all.

THE COURT: I do not want them exhibited before the jury unless it is consented to.

MR. MOORE: All the purpose I desire is to know whether the diamond earrings are in it.

THE COURT: Have you any objection to their exhibition before the jury?

MR. MOORE: I have not any objection to their being exhibited, that is, to ascertain that fact.

THE COURT: That is, in order to ascertain that fact. Let the District Attorney and Counsel examine the bag together.

MR. MOORE: I will ask if the diamond earrings

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are now in the bag?

MR. OSBORNE: We concede that they are not. I will concede that the diamond earrings are not in the bag.

THE COURT: Then put the articles back into the bag.

BY MR. OSBORNE

Q How long after her death was it you discovered this bag,

Mrs. Adams? A (No answer)

Q How long after the death of the girl did you discover this bag? A Two or three days after I went to get some sugar. I took down the can and carried it into the kitchen.

Q Two or three days after her death? A Yes, sir.

Q Well, up to that time that you went into the closet, did it remain locked? A The closet was locked.

Q Did she have a key to that closet?

MR. MOORE: I object to this line of examination upon the ground that it is leading and suggestive.

THE COURT: Yes. Ask who had a key to the closet.

MR. OSBORNE: Certainly.

Q Did you have a key to the closet?

Objected to. Objection sustained.

Q Who had a key to the closet? A She had a key, but she

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left it at home in the evening when she went out; the evening she went out she left the key at home.

Q Did she leave the key at home that evening? A Yes, sir, left the whole bunch of keys right on her bureau.

Q And did that closet remain locked up to the time that you went to it? A Yes, sir.

Q Nobody else searched it but you? A Nobody else in it but me, when I went in to get some sugar.

MR. MOORE: I do not like to continually object to these leading questions, but they have been answered before, and the examination is completed. It seems to me that counsel ought to observe the rules.

BY MR. MOORE:

Q On the night that she went away, when last you saw her alive, she left the keys where? A She left the key the first time she came in.

Q She left the keys with you when she came in? A No, sir, she didn't leave them with me.

Q Where did she leave them? A In her dressing room on the bureau, right in the middle of the bureau.

Q And those keys were in a bunch on a key ring? A On a bunch.

Q And those keys unlocked the bureaus, the bureau drawers and

CASE 27261

- the rooms in the house, did they not? A Yes, sir.
- Q Including the door leading into this cupboard? A Yes, sir.
- Q Now, were not those keys given to the police officers when they came there to make a search? A No, sir, they did not give the keys to the police officers; I had the keys.
- Q Did they have them? A Yes, sir, I didn't give them to the policemen.
- Q Did not they ever have this bunch of keys? A No, sir.
- Q To unlock any of the drawers? A They had them when we went to the 30th Street station; then I gave up the bunch of keys to the officers.
- Q When was that? A When we went to the 30th Street -- to the station there.
- Q When you first went there? A Yes, sir, when I came from the hotel; when they carried me to the station, and then they asked for the keys, and I gave them. They went uptown to the house, and I stayed down at the station.
- Q Now, if I get it correctly, you learned that Dolly Reynolds was dead? A Yes, sir.
- Q You went up to the Grand Hotel to identify her? A Yes, sir, they came after me.
- Q Then you went from that hotel to the police station?
- A Yes, sir.
- Q When you got over to the police station, you had this bunch

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of keys? A Yes, sir.

Q And while at the station, you gave the keys to some officer?

A Yes, sir.

Q And that officer, or other officers went to the house?

A Yes, sir.

Q While they were in the house, you were in the police station?

A Yes, sir.

Q Did you remain there until they came back? A No, sir, I did not. I went home, and they told me to go on home, and I met the officer there at the house.

Q Did they return the keys to you then? A Yes, sir, they left the key then.

Q What? A The key was there.

Q Did they give the keys to you when you left them on your way home? A I did not meet them on the way home; I met them at the house.

Q They were in the house making a search when you got there?

A Yes, sir.

Q Then you donot know where they had searched, of course, before you got there? A No, sir, they didn't search that closet.

Q How do you know? A If they had they would have found that bag.

Q Well, is that the only reason that you know of? A Well,



they searched all the rooms; they went in all the rooms and all the drawers in the rooms, and all the closets in the bedroom, but that dining room closet they never was in it.

Q You do not know what was done while you were at the police station? A Nobody was at the house.

Q You do not know what these men did while you were away?

A Yes, sir; the men couldn't do anything; they couldn't put any bag in there; they couldn't put any bag in that closet.

Q You do not know whether they looked in there or not? A They didn't, because they said they hadn't been in that closet.

Q Did anybody tell you when you got to the house that they had not looked in that closet? The officer was there.

Q Did anybody tell you? A No, sir, nobody didn't tell me they hadn't, but they was there when I left. They didn't know what belongs to that closet.

Q That closet I suppose they could not see? A They didn't see it, because they didn't know there was anything in that closet; it was in the dining room.

Q After the diamonds were found, then they told you they had not looked there? A What do you say?

Q Do you know of any reason why they did not search this particular cupboard? A I don't know; perhaps they didn't

CASE 72261

see it; they didn't go that way; they didn't see that closet, because that was a separate room.

Q You think they did not search? A No, sir.

Q If they had searched it they would have found the bag?

A Yes, sir, they would have, because they would have taken it out with them.

Q If the bag was not there that day they would not have found it?

THE COURT: Is not that a subject of argument?

The Witness: The bag was there, because she must have put it there herself when she was going out. She must have put it there herself.

Q You do not know who did put it there? A I don't know; I know nobody did but her; I can say that; no, sir; nobody did but her.

THE COURT: Strike that out.

Q As a matter of fact, was it not more than a week, or nearly a week, before the diamonds were discovered after her death?

A More than a week.

Q Nearly one week? A I don't know about that, because I went in to get some sugar, for my sugar was out, and that is the way I came across it; when I seen the bag I didn't touch it.

Q What day of the week was it you found the diamonds? A I

couldn't tell you what day, because I didn't keep an account of what day.

Q Was it not quite awhile after? A What is that?

BY THE COURT:

Q How long after the death of Miss Reynolds was it that you found the diamonds? A The same week.

BY MR. MOORE:

Q The same week? A Yes, sir.

Q Are you sure of that? A I am sure of it; it must be the same week; I put it at that same week when I found it, when I went to get some sugar.

Q You believe it was that week? A Yes, sir; I kept no account of it.

Q Are you sure of it? A I kept no account of it; I didn't know I had to keep an account of it.

Q As soon as you found them you turned them over to somebody? A I didn't turn them over to anybody. I sent to one man called Mr. Reynolds, who had been over to Long Branch.

Q Who came after them, do you know? A Two officers.

Q Do you know what officers? A I seen them somewhere or other.

BY MR. OSBORNE:

Q What time did you go there? A When?

Q When you came from the station house? A I did not look

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at the clock to see what time I came.

Q The police sent you right up to the house, did they?

MR. MOORE: I object to that as leading and suggestive.

Objection sustained.

Q What hour did you go to the house when you left the station house? A I don't know.

Q How many officers were there? A I didn't look at the clock to see.

Q What officers were there? A Some two or three of them was there.

Q Two or three detectives? A Yes, sir, detectives were there; I don't know who they are, but they were there.

S T E P H E N B U R N S, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q Mr. Burns, what is your business? A Waiter.

Q Where? A Grand Hotel.

Q Are you still there? A Yes, sir.

Q How long have you been there? A With the exception of two years that I have been out, I have been there nine years altogether.

Q Do you remember the 15th of August, 1898? A Yes, sir.

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Q Did you wait on a lady there that day, about one o'clock?

A Yes, sir.

Q Who did not pay for her check, but signed for it? A Yes, sir.

Q I ask you if that is the check? A Yes, sir, that is the check.

Q Did you ever see the woman at any time after that? A Yes, sir.

Q Where? A I seen her up in a room.

Q Was she alive or dead after that? A She was alive when I seen her that evening, for I collected the check.

Q What time of day was it? A Between half-past five and six.

Q You went up to the room and collected the check, did you? A Yes, sir.

Q Was anybody with her at the time? A Yes, sir.

Q Who was with her? A I couldn't say.

Q Was it a man or a woman? A It was a man.

Q It was a man? A Yes, sir.

Q Did you see the face of the man? A I seen his side face.

Q Would you be able to identify him? A No, sir.

Q Have you ever been able to identify the man? A No, sir.

Q Who paid the check-- the man or the woman? A The woman paid the check.

Q The woman paid the check? A Yes, sir.

Q How did she pay it? A A ten dollar bill.

CASE 1001



MR. OSBORNE: Now, if your Honor please, I offer that check in evidence.

MR. MOORE: I object to it, on the ground that it is immaterial and incompetent and irrelevant.

MR. OSBORNE: The only reason I offer it is because the hand writing of the woman is on it. I propose to show that he saw her write her name.

Q Did you see her write her name at the top of it? A Yes, sir.

MR. OSBORNE: I want to identify the body of the woman. It has been admitted at every trial of this case, and had been passed upon by the Court of Appeals as locating the woman.

MR. MOORE: It never has been passed upon by the Court of Appeals, because it has never been questioned. The case was reversed upon other grounds, and no comment made upon this question before the Court of Appeals. I do not see how her handwriting is of importance here for any purpose, and it certainly is hearsay as against this defendant; something that was made in his absence and with which he had nothing at all to do.

THE COURT: I am inclined to hold that it is immaterial.

MR. OSBORNE: The only relevancy of it, of course,

as your Honor can well see, is not that the contents of the writing are of any importance whatever, but suppose, for instance, that her banker came here to say that he was familiar with that handwriting. That would corroborate the fact that this Emeline Reynolds mentioned in the indictment was the person that was in that room at the hotel. For that purpose it was introduced at both trials.

MR. MOORE: There is no question as to its being Emeline C. Reynolds who was in the room. The photograph is here, and you have identified her by that.

THE COURT: I will sustain the objection at this time. Let it be marked for identification.

- Q Now, Mr. Burns, did you speak of that check to any human being? Answer yes or no. A Yes, sir.
- Q To whom? A The captain.
- Q What captain? A Legge.
- Q Legge? A Yes, sir.
- Q Did you speak of it to anybody else? A The head waiter when he came in.
- Q Who was the head waiter? A Mr. McCurry.
- Q You spoke to both of them, did you? A Yes, sir.
- Q About that check? A Yes, sir.

Q Did you state out of what that check was paid? A Yes, sir.

Q What was it? A A ten dollar bill.

Q What was the man doing at the time that you came into the room? A He was walking past a small table in it.

His side face was in my direction; I could just see his side face.

CROSS EXAMINATION

BY MR. MOORE:

Q What time was this? A Between half-past five and six o'clock.

Q In the afternoon? A Yes, sir.

Q That was when they were coming from the street through the 31st street entrance, passed through the dining room to take the elevator in the back of the dining room?

A I believe so; I didn't see them go through the dining room.

THE COURT: This witness testified that he collected this check.

Q Where did you collect it? A In Room 84.

Q You went to the room? A Yes, sir.

Q To collect it? A Yes, sir.

Q Where was he when you went into the room? A Standing; he passed by a table. I just seen him pass by a table.

Q Room 84 is a square room, is it not, practically?

A Yes, sir, I believe it is a square room.

Q How long were you in the room? A I didn't go into the room at all.

Q You were in the door? A Outside the door, and the door partly open.

T H O M A S C R A V E N, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q Officer Craven, are you connected with the force? A Yes, sir.

Q What precinct? A Nineteenth.

Q Do you remember the 15th day of August, 1898? A Yes, sir.

Q Were you called to the Grand Hotel? A Yes, sir.

Q By whom were you sent to the Grand Hotel? A By the sergeant at the desk.

Q What was the name of the sergeant? A Acting Sergeant Fennell.

Q What time did you go to the hotel? A In the neighborhood of ten o'clock.

Q When you got there, where did you go? A I went up to the fourth floor.

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- Q Did you go to any particular room? A Room 84.
- Q Was the door locked when you got there? A Yes, sir.
- Q Did somebody go with you? A The porter, Fitzpatrick.
- Q Fitzpatrick? A Yes, sir, and the proprietor, Mr. Leland.
- Q Mr. Leland and Fitzpatrick? A Yes, sir, and they called a chambermaid.
- Q What did they do? A They called a chambermaid and opened the door.
- Q What did you do? A I went in.
- Q Tell us all that you saw there? A I saw the body of a woman lying on the floor, and about alongside of the body was lying a lead bludgeon.
- Q Is this it (showing witness "People's Exhibit 17")?
- A That looks like it, but it is not in the same state now that it was then. There was some wrapping around the end of it.
- Q Wrapping around--that is, tape wrapped around the end?
- A Yes, sir, and a sticky substance on the tape.
- Q Were there any cuts in it at that time? A No, sir.
- Q Was it a solid piece of lead? A Yes, sir.
- Q Any cuts at all in the thing? A No, sir; and a little hand satchel lying beside it.
- Q Is this the hand satchel? A Yes, sir, something similar to that; and a pocketbook lying on the table.

CASE 17-1



Q Is this it? A I would not say; something similar to that.

MR. OSBORNE: I understand you make no question about these things?

MR. MOORE: No. They have been proven once, and I have raised no question about them.

Q Now, Officer Craven, who took charge of the premises there?

A I looked around the room there, to see what was in it, and I asked Mr. Leland-----.

Q Do not tell what you asked him. A I had the door locked.

Q Where did you go? A I went back to the station house.

Q Did you have a talk with anybody there? A I asked to see the Captain.

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

Q What did the Captain do, as far as you know? A The Captain and I went back to the hotel.

Q Was that the end of your connection with the case? A The Captain put me in charge of the room there.

Q How long did you remain in charge of the room? A I remained up there until I was relieved by Officer Barry.

Q At what time? A I think it was two o'clock in the afternoon.

Q Is that the end of your connection with the case? A Yes, sir.

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Q Had you ever heard of this woman before that day? A No, sir.

Q Or of Doctor Kennedy? A No, sir.

Q What was the first intimation that you had that there was anything out of the way at the "Grand Hotel"? A By the sergeant at the desk ordering me there.

CROSS EXAMINATION

BY MR. MOORE:

Q You say that when you saw this metal, the large end was wrapped with bicycle tape; is that correct? A Tape on one end of it.

Q About how much of the large end was wrapped with that tape?

A I would not say which end was wrapped.

Q Cannot you tell? A There was tape around it; I can't say which end it was.

Q Now, you are unable to state? A No, sir, I could not state.

Q About how much of the end that was wrapped with bicycle tape was wrapped up? A I couldn't state that either; I know that there was tape around it.

BY MR. OSBORNE:

Q While you were there, Officer, was the autopsy performed?

A No, sir, they just commenced when I left.

CASE 12345

J O H N B A R R Y, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q Officer Barry, are you connected with the force? A Yes, sir

Q How many years? A Eleven years; going on eleven years.

Q What precinct were you connected with on the 15th of August, 1898? A The Nineteenth.

Q Did you go to the Grand Hotel? A Yes, sir.

Q What hour did you go there? A About two o'clock.

Q And whom did you relieve? A Officer Craven.

Q Now, did you have charge of the premises from that time on? A Yes, sir.

Q Until the body was remove? A Yes, sir.

Q Did you see a body there? A Yes, sir.

Q When you got there had the autopsy been performed? A No, sir.

Q What doctors performed the autopsy, do you know? Doctor O'Hanlon, I think.

Q Did you see Coroner Bausch there? A I did.

Q What became of the body? A They put it in a box and took it downstairs in the elevator.

Q Do you know the undertaker? A I know him by sight; I think his name is Kenedy.

Q It was Mr. Kennedy, the undertaker, was it not? A Yes, sir.

Q Is that the gentleman (pointing to a man incourt)?

A Yes, sir.

CROSS EXAMINATION

BY MR. MOORE:

Q Were you present while the autopsy was being performed?

A Yes, sir.

Q Did you observe it closely? A Yes, sir.

Q You say you did observe it closely? A I was in the room all the time.

Q Did you observe the autopsy closely? A Well, I was attending the door-- As close as I could.

Q Did you or didn't you? A Yes, sir, I observed the autopsy as close as I could.

J O S E P H K E N N E D Y, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION:

BY MR. OSBORNE:

Q Mr. Kennedy, did you take the body of Emeline C. Reynolds after the autopsy was performed from the Grand Hotel?

A Yes, sir.

Q Where did you bury it? A At Evergreen Cemetery.

BY THE COURT:

Q Was the body that you buried in Evergreen Cemetery the body



that you removed from the Grand Hotel? A Yes, sir.

J O H N E. K E O G H, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION:

BY MR: OSBORNE:

Q Mr. Keogh, what is your business? A Room Clerk at the hotel.

Q Whereabouts? A The Grand Hotel.

Q How long have you been Room Clerk at the Grand Hotel?

A About three years.

Q Raise your voice? A Three eyears.

Q Were you the room Clerk there in August, 1898? A Yes, sir.

Q Who was the Room Clerk about one o'clock or half-past twelve on the 15th of August? A In the afternoon?

Q Yes. A Paul Rue.

Q You were not the Room Clerk then that day? A No, sir.

Q I show you this book, and I ask you what it is? A That is the hotel register.

Q Now, I want you to turn to the 15th-- hotel register of what? A The Grand Hotel.

Q I want you to turn to the 15th of August, 1898. Have you got August 15th? A Yes, sir.

Q I want you to mark with a pencil on that register the entry opposite Room 84 on that day. (The witness does so).

IN CASE 2791



- Q Did you make a change in that book? A Yes, sir.
- Q What did you change? A I changed 84-- Number 84, to 194.
- Q When did you make the change? A About one o'clock on the 16th of August.
- Q On the 16th of August? A Yes, sir.
- Q You changed that 84 to what? A To 194.
- Q Why did you do that?

MR. MOORE: I think that is immaterial; I object to it; it is changed, and that is about all there is of it. The reason for doing it is not material.

- Q Was Room 84 there before you changed it? A Yes, sir.
- Q Did you have a reason for changing that? A I changed it because----

THE COURT: Do not state the reason.

- Q Can you say yes or no? A Yes, sir.
- Q State what the reason was.

Objected to as immaterial. Objection sustained.

(The entry in the register was marked "People's Exhibit 8 for identification, May 15th, 1901")

CASE 77-91

BERTRAND H. CARMER, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION  
BY MR. OSBORNE:

Q Mr. Carmer, what is your business? A Clerk in the Eastchester Savings Bank.

Q How many years have you been clerk there? A About eight years.

Q Did Emeline C. Reynolds have an account in your bank?

MR. MOORE: I object to that as immaterial and incompetent, and hearsay as against this defendant.

THE COURT: It is not a question of the order of proof, is it?

MR. MOORE: No, sir.

THE COURT: I will allow it.

Exception.

(Witness) A Yes, sir.

Q Did you know her? A I did.

Q Were you familiar with her handwriting? A I am.

Q Did you ever see her write? A I have.

Q When was the last time you saw her before her death? A On the 11th of August, 1898.

Q Where did you see her? A At the bank.

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MR. MOORE: I object to that, as immaterial, incompetent and hearsay as against this defendant.

Objection overruled. Exception.

(Witness) A I saw her at the bank, in the banking office.

Q On what day? A The 11th of August, 1898.

Q Who was with her at that time?

MR. MOORE: I object to that, upon the ground that it is immaterial, incompetent, inadmissible and hearsay as against this defendant, unless it was the defendant who was with her.

Objection overruled. Exception.

(Witness) A She was alone, to the best of my knowledge.

Q Now, did she do anything that day with regard to the bank?

MR. MOORE: I object to that, upon the ground that it is incompetent and inadmissible as against this defendant. The defendant, it seems to me, if your Honor please, can neither be convicted nor acquitted upon the acts of another, even the act of the deceased herself, nor can he in any way be bound, nor can they predicate a case upon anything that she may have done, any more than they could if some third party had done it, unless the defendant is connected with the act.

THE COURT: Does the District Attorney propose

CASE 11-1

to connect it?

MR. OSBORNE: I propose, if your Honor please, and I want to make myself perfectly candid before the Court, as I always try to do-- I propose to show by this witness that she drew---

MR. MOORE: If your Honor please, I object to this statement as to what he proposes to show.

THE COURT: Yes. The Court of Appeals has held that that is improper.

MR. OSBORNE: I do not know how to put it in any other way than that she went to the bank.

THE COURT: No.

MR. OSBORNE: That I have proved so far.

THE COURT: I will not allow you to state what you intend to prove. If the District Attorney will make the statement that he will connect it, I will admit it; otherwise I will not.

MR. MOORE: Then I object to the order of proof.

MR. OSBORNE: The District Attorney is not going to say anything in this case that he cannot prove.

MR. MOORE: I object as to the order of proof. I have been through this case, and through the record of the former trials, and I would not like to let something go upon the record that would be

CASE 22261

stricken out later, and I think your Honor ought to hold Counsel to the order of proof.

MR. OSBORNE: The Court need not hold me to anything except what I deem to be my honest duty, and I would not undertake by trick or device to prove anything that the Court does not want me to prove, and I will not undertake to prove anything that the Court will have to strike out. What I propose to do is this-----.

MR. MOORE: I object to what he proposes to do.

THE COURT: I have asked you a question, Mr. Osborne, and I ask for an answer.

MR. OSBORNE: I am going to give you my answer.

THE COURT: Well, say yes or no; do you intend to connect it?

MR. OSBORNE: I intend to try to connect it, and I intend to show your Honor how I will connect it. I will not say anything about what happened at the bank, but I want to call your Honor's attention to this, to enable you to rule, and I propose to show the manner by which I am going to do it.

THE COURT: I will sustain the objection at this time, but that does not preclude you from recalling this witness at some other time, if necessary.

CASE 201



Q I show you an entry here in this book, marked "E. Maxwell and wife, Brooklyn", and I ask you in whose handwriting that is? A That is the handwriting of Emeline C. Reynolds.

MR. OSBORNE: I offer it in evidence.

MR. MOORE: No objection.

(The entry was marked "People's Exhibit 8, May 15th, 1901")

Q I show you "People's Exhibit Number 9 for identification", and I ask you in whose handwriting is "E. Maxwell" at the top of that check? A That is also in the handwriting of Emeline C. Reynolds.

MR. OSBORNE: I offer that in evidence now.

MR. MOORE: While I think it is immaterial, I do not care whether it goes in or not.

THE COURT: Do you object?

MR. MOORE: No, sir.

Q Did Emeline C. Reynolds have a conversation with you at the time she went to the bank? A No, sir.

Q None whatever? A No, sir, no conversation.

Q She did not say anything at all?

MR. MOORE: Objected to, upon the ground that it is cross examination of his own witness.

THE COURT: Objection sustained.

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Q Did she do anything when she went to the bank?

MR. MOORE: I object to that.

THE COURT: That is introductory; I will allow it.

A Yes, sir.

Q What did she do?

Objected to. Objection sustained.

Q Did she draw any money from the bank?

Objected to. Objection sustained.

Q How much money did she draw from the bank?

Objected to. Objection sustained.

Q Did she draw any amount from the bank?

Objected to. Objection sustained.

M A M I E S M I T H, a witness called on behalf of  
the People, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q Is it Miss Smith or Mrs. Smith? A Miss Smith.

Q What is your business, Miss Smith? A I am a chambermaid.

Q Chambermaid? A Yes, sir.

Q Whereabouts? A In the Grand Hotel.

Q Were you a chambermaid there on the 15th of August, 1898?

A Yes, sir.

Q Was your attention called at any time to Room 84? A Yes, sir.

Q What time of day was it? A Shortly after six o'clock

CASE 22261

in the evening.

Q In the evening? A Yes, sir.

Q Or afternoon? A In the evening.

Q Tell all you saw there, if you saw anything. A I went to Room 84 shortly after six o'clock, and I saw a lady and gentleman there. On the evening of August I saw a lady and gentleman in the room.

Q Would you be able to identify the man? A No, sir.

Q What? A No, sir.

Q Were you inside the room? A No, sir, I only went as far as the door.

Q What was the man doing at the time? A He was reading a newspaper.

Q You did not see his face? A No, sir.

Q Did you see anything in the room at all that you recollect?

A The only thing I saw was a lady fixing her hair at the mirror.

Q Did you see anything else at all? A No, sir.

Q Did you see a champagne bottle? A No, sir.

Q You did not notice that? A No, sir.

Q That is all you saw? A Yes, sir, that is all I saw.

Q Did you see the woman after that? A Yes, sir, I saw the woman next morning.

Q About what time? A Between twelve and one.

CASE 7291

Q Was she alive? A She was dead.

CROSS EXAMINATION

BY MR. MOORE:

Q Did the man whom you saw in that room have on light clothes? A I couldn't tell what kind of clothes he had on. I didn't take notice.

Q Have you ever told anybody that the man you saw had on light clothes? A No, sir, I have not.

Q Sure about that? A Yes, sir, I am positive.

CASE 77-21

BESSIE CLARK, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

- Q Madam, you are a widow, are you? A Yes, sir.
- Q Where do you reside? A 213 Seventh Avenue.
- Q In the City of New York? A Yes, sir.
- Q How long have you been a widow? A Since the 29th of December, 1899.
- Q What was the name of your husband? A Robert.
- Q Robert what? A Clark.
- Q Robert Clark? A Yes, sir.
- Q When did he die? A The 29th of December, 1899.
- Q Now, where did he work during his lifetime? A The last place that he worked was at Smith & Gray's, 31st Street and Broadway.
- Q Did he work for Smith & Gray Company in 1898? A Yes, sir.
- Q How many years did he work for Smith, Gray & Company altogether? A He didn't work quite a year.
- Q Where did he work before that? A Evans & Company, on Sixth Avenue.
- Q Do you remember whether he ever worked for Tobin & Company?

MR. MOORE: Objected to as immaterial.

MR. OSBORNE: I will connect that, your Honor.

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THE COURT: I will allow it.

Q At the time when he worked for Mr. Tobin, where did Mr. Tobin keep his place of business? A Well, I did not know my husband then when he worked there.

Q Of your own knowledge you don't know whether he worked there?

A The last place was 425 Sixth Avenue, when he worked for Tobin.

Q Then you did know him when he worked for Tobin? A Yes, sir.

Q Do you know how long he worked for Tobin; to your knowledge?

A Well, I can't exactly say.

NO CROSS EXAMINATION.

P A T R I C K J. L E N E H A N, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q Mr. Lenehan, what is your business? A Night elevator boy.

Q Night elevator boy? A Yes, sir.

Q Where? A At the Grand Hotel.

Q Are you the night elevator boy there now? A Yes, sir.

Q How many years have you been there? A About four.

Q Four years? A Yes, sir.

Q Were you the night elevator boy at the Grand Hotel on August 15th, 1898? A Yes, sir.

Q On that night, do you recollect taking a man and woman up in

the elevator-- Do you particularly recollect any particular man and woman? A Yes, sir.

Q What time did you take them up? A Ten minutes to twelve.

Q Can you describe the man? A Yes, sir.

Q Describe him? A Well, a dark suit, a turn down collar, a black bow tie, and a straw hat.

Q Now, can you describe the woman? A Yes, sir.

Q How she was dressed? A Yes, sir; a crash skirt, a white waist and a straw hat.

Q Did you ever see the woman at any time after that? A No, sir.

Q Did you see her body at any time? A No, sir.

Q Now, where did you see them go after they left the elevator?  
A The fourth floor.

Q To the fourth floor? A Yes, sir.

Q What direction did they go in? A They went right straight up the Hall.

Q Right straight up the hall? A Yes, sir.

Q You saw the defendant the next day, did you? A Well, ---

Q Did you see the defendant the next day? A Yes, sir.

Q Mr. Kennedy? A Yes, sir.

Q Where did you see him, Twenty-second Street? A Twenty-second Street.

Q Who was with you at the time? A Detective Davis.

Q Did you identify him as the man?

MR. MOORE: I object to that, if your Honor please

MR. OSBORNE: I will strike out the word "identify", and ask him if he recognized him.

THE WITNESS: Yes, sir; that he looked like the man.

Q He looked like the man? A Yessir.

Q Are you willing to swear positively that that is the man?

A No, sir.

Q What is your best recollection about it, Lenehan? A That he looks like the man.

Q What is your best recollection as to whether or not he is the man?

Objected to.

THE COURT: Objection sustained. You cannot cross-examine your own witness.

Q Now, describe Dr. Kennedy when you saw him the next day?

A He had a blue coat.

Q What is that? A A blue coat, a bicycle coat.

Q Speak out loud. A A bicycle coat, turn down collar, and a black bow tie.

Q Did he have a straw hat on? A No, sir.

Q What kind of a hat? A He didn't have none at all.

Q When you saw him the next day? A Yes, sir; in his office.

Q And did you notice---- A I say that is the way he was dressed in his office.

Q Did you see him afterwards anywhere else? A Yes, sir.

CASE 2291

Q Where? A At the station house.

Q How was he dressed then? A He had a derby hat-- not a derby hat, a fedora hat, a black bow tie, and I don't know what kind of a coat, but a different coat he had on.

Q What kind of a coat, do you recollect? A A Prince Albert, or something.

Q Do you recollect the coat? A No, sir.

Q Did you notice anything else about the man that went up in the elevator at all? A Yes, sir.

Q What was it? A The man had a ring on his finger.

Q Which finger? A On the little finger of his right hand.

CROSS EXAMINATION

BY MR. MOORE:

Q Did you notice whether the lady wore gloves? A No, sir, I did not.

Q Did you notice whether the gentleman had gloves in his hand? A No, sir.

Q Did you notice whether there were any dots on the tie? A No, sir; it was all black.

Q All black? A Yes, sir.

Q Is that the only black bow tie that you ever saw? A Oh, no.

Q At the Grand Hotel that day? A That day? I wasn't there in the day.

Q Well, that night? A Yes, sir, I think that was the only one.

Q Now, as a matter of fact, can you tell what kind of a bow tie,

CASE 77261



or tie, any other person wore that you took up in the elevator that night? A Well, no, sir, I don't.

Q Can you tell what finger any other person wore his ring on that you took up that night? A No, sir.

Q Can you tell or describe the clothing of any other person that you took up in the elevator that night? A Yes, sir.

Q Any stranger, I mean? A Stranger? Well, I don't know; very few strangers I take up.

Q Well, you take up all that go up when you are on duty, do you not? A Yes, sir; but generally I know them all.

Q You know all the guests of the hotel? A Not all, but nearly all that I take up from half-past eleven.

Q Well, don't you, when you are on duty, take up all of the guests as they go to their rooms, if they use the elevator? A Oh, yes, sir; I take them up in the elevator.

Q That is the only elevator there is leading from the office to upstairs, is it not? A Yes, sir.

Q So you take up all the guests, strangers and regular boarders, do you not? A Well, a few strangers, yes, sir.

Q Don't you take up all that go up? A All that go up, yes, sir.

Q Now, can you recall the dress or figure of any other man, stranger, that you took up that night? A Stranger?

Q Yes. A No, sir; I don't think so.

THE COURT: It seems to me the witness does not include transient guests as strangers. He looks upon

CASE 7721



transients as regular guests.

- Q Well, people come to that hotel and stop for a day or for a night, do they not? A Yes, sir.
- Q And go away the next morning? A Yes, sir.
- Q And that is happening day in and day out all the year round, is it not? A Yes, sir.
- Q So that people go up in that elevator at night and down in the morning, and those two trips are all they make in that elevator, is it not? A Yes, sir.
- Q Do you call such a person as that a guest, a transient, or a stranger? A A transient.
- Q And it would be a stranger to you, wouldn't it? A Yes, sir.
- Q Now, can you recall the dress of any transient that went up with you in the elevator that night? A I don't think I brought any up.
- Q You don't think you did? A No, sir.
- Q You don't think there was a transient in that hotel that night, except the one that went to room 84? A That is a lady.
- Q Is that right? A Yes, sir.
- Q Now, Mr. Lenehan, as a matter of fact, isn't there a whole lot of people going up in the elevator that are strangers to you during the time you are running that elevator? A Ladies?
- Q Ladies and gentlemen, both? A Very few ladies-- very few strange ladies.

- Q Strange gentlemen? A Oh, yes, sir.
- Q And some ladies? A No, sir; very few.
- Q Well, some? A Some--- No, sir.
- Q Wasn't there any? A Yes, sir, there might be one-- one a week.
- Q Wasn't there more than one went up that night? A No, sir; that is all that went up.
- Q Was there one lady, or one transient, that you took up in the elevator on this particular night? A Yes, sir, from half-past eleven until half-past seven in the morning only one went up.
- Q When did you go on duty? A At a quarter of twelve.
- Q A quarter of twelve? A Yes, sir.
- Q Was it day or night? A That was the night of August 15th.
- Q Well, during that time there were a number of gentlemen went up to their rooms, did they not? A Yes, sir.
- Q Can you describe a single one of those men? A Oh, yes, sir.
- Q That was a transient? A Transient? No, sir-- I know several.
- Q Well, of course you can describe persons you know; but transient strangers, whom you had in the elevator that night?
- Q Yes, sir, I could.
- Q What floor did you take the party to? A The fourth floor.
- Q The same floor that you took this lady to? A Yes, sir.
- Q What hour? A Well, about a quarter past one.

ORIGINAL



CASE 7-2-1

- Q What finger did he wear his ring on? A I didn't see any.
- Q Did you know whether he wore one or not? A No, sir.
- Q Did you know whether he wore gloves or not? A No, sir.
- Q Do you know whether he had a black bow tie, or not? A No, sir.
- Q Do you know whether he had a turn down collar, or not? A No, sir.
- Q Do you know whether his hair was light, or dark? A No, sir; I don't know.
- Q Do you know whether his eyes were blue, or black? A No, sir.
- Q Do you know whether he was twenty-five or forty years old?
- A I guess he was about forty-five.
- Q Well, that is a guess, is it? A Well, he looked to be a pretty old gentleman.
- Q Do you know whether he wore a derby hat, or a fedora? A A fedora.
- Q Sure about that? A I am sure of it.
- Q What made you say you thought? A I didn't say I thought; I said yes.
- Q Do you know whether he wore a light suit, or a dark? A I think the suit was dark.
- Q Do you know? A No, sir, I don't.
- Q Now, that is the description of the other man. Now, Mr. Lenehan, wasn't the next time that you saw this man, the defendant-- or the next time that you saw the man that you believed to be the defendant, wasn't it in his office? A Yes,

CASE 7791

sir, it was.

Q So that, before you went over to the police station to identify him, you saw him in his office? A I seen him in his office first.

Q But you went over to the police station to identify him; did you not? A Yes, sir.

Q Who went with you to the defendant's office? A Mr. Davis.

Q What Davis? A Detective Davis.

Q Didn't somebody else go with you? A Well, they were strangers to me.

Q Didn't Detective Sergeant Davis and another Detective Sergeant go with you to the defendant's office? A I think his name is Lang.

Q Another Detective? A Yes, sir.

Q You went there, and then after that you went over to the police station, and in company with Davis, Legge and McCurry, the defendant was discovered? A No, sir.

Q Well, it was after you had been at his office that you went over there, was it not? A Yes, sir.

MR. OSBORNE: Over where?

MR. MOORE: To the police station with Detective Davis.

Q Well, after you had been to the defendant's dental office? A Yes, sir.

Q It was the same day? A Yes, sir.

CASE 4091



Q Was it within an hour? A It might have been, yes, sir.

Q Wasn't it? A It might have been.

Q Now, just tell me whether it was, or was not, if you know?

A No, sir, it was after four o'clock.

Q Was it within an hour of the time that you were at this defendant's office? A About an hour and a half.

Q About an hour and a half? A Yes, sir.

Q When you were over to the station, who was at the station house from the Grand Hotel? A I did not see anybody from the Grand Hotel when I went into the station house.

Q Well, when you got in? A After I had got in, and had identified this defendant as the man which I thought that I brought up.

MR. MOORE: Now, I object to that, and move to strike it out.

Q Who did you find from the Grand Hotel? A After I identified this defendant I met several.

MR. MOORE: I object to that, if your Honor please, and I move to strike it out as not responsive.

THE COURT: Yes, strike it out as not responsive.

THE WITNESSES: I found Davis and Legge and Mr.

and

Q Was he there? A No, sir.

Q No, did you, upon the first trial of this case, say when you were asked if the defendant was the man: "He looks a little

CASE 22, 21



like the man"? A I said he looks like the man.

Q Did you say just what I asked you? A Why, I don't remember.

Q Well, is that the fact, that he looks a little like the man?

A He looks like the man, yes, sir.

Q What do you say now, about whether or not, on the first trial, you swore he looked a little like the man? A I say he looks like the man.

Q Did you swear just that: "He looks a little like the man"?

A I said I couldn't swear positively that he is the man.

Q Now, do you understand my question? The question is: Did you upon the first trial of this case swear that the defendant "looks a little like the man"? A I don't remember.

Q What? A I don't remember.

Q That is as strong as you will put it? A Yes, sir.

Q You never have stated that the defendant was the man?

A Not positively, no, sir.

Q Were you asked by Assistant District Attorney McIntyre, if that was the man, and did you say, "I cannot say"? A I said, "I can't say positively that he is the man."

Q Were you asked upon the former trial, or both of them, with reference to the hat that the man wore who went up in the elevator? A Yes, sir.

Q Did you, upon the first trial, and upon the second trial, say that he wore a straw hat? A Yes, sir.

Q And it looked to you to be an old one? A No, sir.

CASE 7701

Q What is that? A No, sir; I don't remember saying that.

Q Well, is that the fact, that it looked like an old straw hat?

A It looked to me like a clean one.

Q Did you swear to this question, on page 71 of the printed case: "Did you notice whether the brim of the hat was flat or curled?" and did you answer: "No, sir, I did not." "Q Do you recall what kind of a straw hat it was? A It was a smooth straw hat. Q As to its color, did it appear to be a hat that had been worn and discolored? A It was a pretty old hat, yes, sir"? A I don't remember saying that.

Q Lenehan, refresh your recollection now, and say whether or not you did not, upon this first trial, swear to just that?

A I don't remember ever saying that, no, sir.

Q Do you now remember whether it was an old hat, or not?

A It looked pretty clean to me.

Q Do you remember of my asking you upon the second trial, the one that was had last March, about this hat, and did you not upon the second trial and here last winter, say that upon the first trial you swore that it looked like an old hat, and you still thought it looked like an old hat? A No, sir.

Q What? A No, sir.

Q Do you say that you did not swear to that, or you don't recall? A I do not recall ever saying that the hat was old.

Q You will not swear that you did not, upon the first occasion, swear that it was old? A I don't remember ever saying that.

CASE 11-2-1

Q Don't you remember, sir, that you were asked by me, upon the trial recently had, with reference to the style of hat? A Yes, sir, I do.

Q What is that? A Yes, sir, I do.

Q And don't you remember that I repeated to you the very questions from this book that I have read to you here to-day?

A Yes, sir.

Q And did you not, upon the last trial, say that you swore to that which I have read from the book? A No, sir, I says I don't remember.

Q Did you not, upon the last trial, again say that the hat appeared to you to be an old hat? A No, sir.

Q When you left the defendant's office, did you say to the officer as you were going out of the door and out of the presence of the defendant: "That is not the man."? A No, sir; I said he looked like the man.

Q You didn't say, "That is not the man"? A No, sir.

Q Did you swear, upon the former trial, that he had a very dark mustache? A I don't know; I think I did; yes, sir; I don't know of the last trial.

Q Upon the first trial, and the last one as well? A I think I did; I am not sure; I think I did; I am not sure.

Q You think the man you took up to the elevator had a very dark mustache? A Yes, sir.

Q And did you, upon the last trial, when asked as to what you

CASE 111

swore to before the coroner, state the color of the hat and the kind of hat? A I don't remember ever saying the hat was old.

Q Was this question asked you: "I now ask you if you did say to Magistrate Sims that the straw hat looked like a pretty old one?" That was true, was it not? A I don't remember ever saying that.

Q And was the answer: "It looked like a pretty old one"?  
A I don't remember.

Q That was said in the police court before Magistrate Sims?  
A (No answer).

Q Did you say that to the Magistrate-- "If you did say that to the Magistrate, that it was a pretty old hat, was it true?"  
A Yes, sir." Is that right? A I don't remember ever saying that, no, sir.

Q Were you asked this: "Did you have a good view of the male person at that time?" referring to the time you took them up in the elevator; and in response to that did you say, "No, sir"? A Ask me that question again.

Q (Question repeated). A I did have a good view of him.

Q What is that? A I did have a good view of him.

Q Did you swear to that on the first trial? A I don't know.

Q What is that? A I don't know.

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

Q I am sorry but I am asking you the description of the man whose life

CASE 2231



you are swearing away here than what you said under oath upon that occasion?

Objected to. Objection sustained.

Q Is your memory better as to the man's description that you took up in the elevator on the night of the murder-- better than your recollection of what you have sworn to upon the witness stand in two former trials?

MR. OSBORNE: Objected to as calling for a conclusion.

THE COURT: I think that is a proper question-- proper cross-examination.

A No, my memory ain't better now than it was.

Q Do you understand the question? A Yes, sir; I say it isn't better now.

Q Is that what you swore to? A Yes, sir.

Q I ask you this again; was this question asked you: "Would you have been able to identify the person if he had been brought to your attention at any subsequent time?" and did you answer: "Well, the only part of him I seen was his mustache"?

A Yes, sir, I guess so.

Q And that is true, is it? A Yes, sir.

Q And that was very dark? A Yes, sir, pretty dark.

Q Wasn't this question asked you at the last trial, with reference to the statement that you made to the officer as you were leaving Dr. Kennedy's office: "Do you remember of stating

100-100-100  
CASE 100-100-100



when leaving the office that day, 'That is not the man'?

A I didn't pass any remarks in the office." Did you say that? A Yes, sir.

Q Was this question then asked you: "Did you not make that statement, 'That is not the man'?" A No, sir, not in the office. Q Where did you make that statement? A I didn't say he was not the man; I said he resembles the man a little"? A Yes, sir.

Q Is that what you said when you were leaving the office?

A Yes, sir.

Q That is true, is it? A Yes, sir.

Q That this defendant resembles the man you took up in the elevator a little? A Yes, sir.

BY MR. OSBORNE:

Q Mr. Lenehan, did you see the man when he came into the elevator? A Yes, sir.

Q Took a good look at him when he came in? A Yes, sir, a good look at him coming in.

Q When coming into the elevator? A Yes, sir.

Q And did you put your hand on the wheel, or rope? A No, sir; it is a button.

Q It runs with a button? A Yes, sir.

Q You didn't look at him when you were carrying him up?

A Yes, sir; I asked him "What floor?"

Q You asked him, "What floor"? A Yes, sir.

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- Q Did he tell you what floor? A He asked the lady, and the lady didn't make any reply, and he pulled the key out of his pocket, and he says, "I know," he says, "fourth floor."
- Q He first spoke to the lady, and he says, "I know, it is the fourth floor"? A Yes, sir.
- Q Now, did you ever say at any time, or any place, that it was an old hat? A No, sir, I don't remember ever saying it.
- Q Was it an old hat? A No, sir; it looked to me to be a pretty clean hat.
- Q That is all you know about it? A Yes, sir.
- Q Now, with regard to the mustache. At the time you stated the man had a dark mustache----

MR. MOORE: I object to that, if your Honor please, upon the ground that it is improper.

THE COURT: Wait until the question is finished. Put your question.

- Q Mr. Moore called your attention to the fact, and you stated---

MR. MOORE: I object to that manner of questioning.

THE COURT: That is proper.

MR. MOORE: We think it is improper to call his attention to any evidence that has been given here and include that in his question.

THE COURT: I think not.  
Exception.

- Q At the time you said the man had a dark mustache, was the de -

CASE 2:01

defendant present at that time? A No, sir.

MR. MOORE: Objected to as immaterial.

THE COURT: He has answered it. I instructed the witness not to answer, and he still answers. Objection sustained.

MR. OSBORNE: Mr. Moore has asked him about this

MR. MOORE: I did not ask a word about that.

MR. OSBORNE: I have never referred to this man's mustache with him at all.

THE COURT: You brought it out on the cross-examination, and he has a right on the re-direct to question about it.

MR. MOORE: I did not bring out whether or not the defendant was present. Now, Mr. Osborne has taken a man up in the elevator at the Grand Hotel upon a certain night, and this young man is brought upon the witness stand to give a description of that man. Now, I have proved that at a former trial he said this man had a very dark mustache, and I submit to your Honor whether this defendant was present when he made that declaration, or not, is entirely immaterial.

THE COURT: As to the latter part of the question, I sustain the objection, that is, as to the presence of the defendant.

Q Where was it you said that he had a dark mustache, if you ever

CASE 11-21

said it at any time? A I think I told one of the officers.

Q Did you say it in any court? I ask you if you ever said that in the Coroner's Court, or in the Magistrate's Court, or at any trial. Did you ever say he had a very dark mustache, as far as you recollect? A No, sir; I don't think I did.

Q You don't think you said it anywhere? A No, sir.

Q Now, you can see the defendant's mustache here? A Yes, sir.

Q Is it very different, or very light, or how is it with respect to the man whose mustache you saw that night?

MR. MOORE: Objected to as immaterial.

THE COURT: Objection sustained as to form.

Q I call your attention to the defendant's mustache, and I ask you in what respect does it compare with the mustache you saw that night?

MR. MOORE: I object to his comparisons upon the ground that it calls for a conclusion of the witness, and is improper.

THE COURT: Objection sustained.

MR. OSBORNE: I call the attention of the Court to the fact that all identifications are conclusions.

THE COURT: You may show by this witness the color of the mustache of the man he carried up, and then let the jury determine the other question.

Q What is your best recollection of what was the color of the mustache of the man you did carry up? A It was very light.

CASE 77-61

Q How was it? A A little dark.

Q A little dark? A Yes, sir.

Q Is that the best recollection you have about it? A Yes, sir.

Q Now, you see the defendant's mustache; what do you consider that?

Objected to. Objection sustained.

BY MR. MOORE:

Q Did you understand when I was asking you about what you had previously said with reference to the color of the man's mustache that you took up in the elevator, that I was asking for statements not made in the case under oath?

THE COURT: Do you understand the question?

THE WITNESS: No, sir; I don't understand it.

Q Did you understand me to ask you whether or not you had sworn to the color of the mustache in a court of record? A The color?

Q Yes. A I don't understand that.

Q Have you ever, upon either one of the trials, or before a Police Magistrate, been asked the question as to the color of the man's mustache that you carried up in the elevator?

A I don't remember ever saying so.

Q You don't remember whether you have ever been asked that or not, Lenehan? A No, sir.

Q Now, that there may be no misunderstanding about it, I want to ask this question again; Were you asked this question upon

CASE #291



the first trial: "The man you saw, did he have a mustache, and was it light or dark? A Very slight and very dark?"

A It was medium; yes, sir, it wasn't all dark.

Q Did you not swear to that upon the first trial of this case?

A No, sir; I don't remember.

MR. MOORE: I will read in evidence then this question:

MR. OSBORNE: What page?

MR. MOORE: Page 69, upon the first trial. "Q The man whom you saw, did he have a mustache, light or dark? A Slight, very dark."

MR. OSBORNE: Read the next question and answer.

MR. MOORE: The next question does not relate to the mustache at all, and I submit that it is entirely improper for the District Attorney to interrupt.

THE COURT: There is nothing improper in the District Attorney suggesting that you read a part of the case where you have read only part of one page.

MR. MOORE: I have read every word that relates to the mustache.

THE COURT: That ends the matter.

MR. MOORE: I don't think there ought to be any inference that I have not read everything that related to the mustache.

THE COURT: There is no such inference.

CASE 72-11

MR. MOORE: Then there ought not to be that proposition made.

Q Upon the last trial you were interrogated as to the mustache?

A I don't remember as I was.

Q Did you, upon the former trial, also swear that the only part of the man you saw was his mustache? A On the last trial?

Q Yes. A I don't remember anything about that.

Q Will you swear you did not? A I think my question was that I did not remember.

Q Upon the first trial, did you swear that the only part you saw was his mustache? A I don't know; I don't remember that.

MR. MOORE: May I also read that: "The only part of him I seen was his mustache." Page 72; did you swear upon the first trial: "Q Did you get a good view of the male person at that time? A No, sir." This is being read in evidence. "Would you have been able to identify the person if he had been brought to your attention at any subsequent time? A Well, other than only part of him I seen was his mustache. Q Did you say that before the Coroner? A Yes, sir. Q And when you said that before the Coroner, it was true, was it not? A Yes, sir."

MR. OSBURN: Now, one moment, if your Honor please. "The man whom you saw, did he have a mustache, light or dark? A Slight, very dark." And then, the next ques-

CASE 2281

tion: "Now, look at the defendant, and say whether the defendant looks like the person? A Yes, sir, I do."

MR. MOORE: Objected to.

Did you make that answer?

MR. MOORE: I object to that, if your Honor please, upon the ground that it is immaterial and incompetent, and the witness cannot strengthen his declaration here under oath by proving that he has made a former declaration to that effect, and the evidence that he has given upon a previous trial can only be introduced in evidence for the purpose of showing a contradiction, and not to sustain him.

THE COURT: I think that is the law.

MR. OSBORNE: If a part of the transaction is given in evidence, the whole of it, should be given in evidence.

THE COURT: No, that is not the rule. You can only read from the former trial for the purpose of testing his credibility.

MR. OSBORNE: The only thing I want to do is to read all of it; and at that very moment when he was speaking of the mustache his attention was attracted to the defendant.

MR. MOORE: I object to that.

THE COURT: Yes, I sustain the objection.

BY MR. OSBORNE:

CASE 2271

Q Mr. Lenehan, will you now look at the defendant, and say whether the defendant looks like the person that you took up in the elevator, and answer that question yes or no?

MR. MOORE: Objected to upon the ground that the witness has been already interrogated.

Objection overruled. Exception.

A Yes, sir, the defendant resembles the man I took up.

Q And that is as far as you will go? A Yes, sir.

Q Did you get a look at his face when he came into the elevator? A Yes, sir.

MR. MOORE: Objected to upon the ground that it is leading and suggestive.

THE COURT: He has already answered it. Upon that ground I sustain the objection.

(The Court admonished the jury in accordance with the provisions of Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case until Thursday morning, May 16th, 1901, at 10.30 A. M.)

CASE 1327

New York, May 16th, 1901.

TRIAL RESUMED.

GEORGE W. REYNOLDS, a witness called on behalf of the People, being duly sworn, testified as follows:

Direct Examination.

BY MR. OSBORNE:

Q Mr. Reynolds, where do you reside? A. Mount Vernon.

Q Where is your office, please? A. Number 20 Mount Vernon avenue, Mount Vernon.

Q Number 20 Mount Vernon avenue, Mount Vernon; is that right?

A. Yes, sir.

Q You see, I have to repeat that after you. How long have you lived there? A. About fifteen years.

Q Speak out so that the twelve men can hear you, please.

Fifteen years? A. Yes, sir.

Q With whom do you reside? A. With my wife.

Q You live with your wife there? A. Yes, sir.

Q Were you a brother of Emeline C. Reynolds? A. Yes, sir.

Q Where had Emeline C. Reynolds lived before her death? A. In New York City; at Fifty-eighth street and Ninth avenue.

Q The corner? A. Yes, sir.

Q Was it the southwest corner? A. It was the south side of the street.

Q The south side? A. Yes, sir, the southwest corner, yes.

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sir.

Q Not the southwest but the southeast corner. You know where the drugstore is? A. Well, the drugstore was on the opposite corner.

Q Bungart's drugstore? A. Yes, sir.

Q Right opposite to that that would be the southeast corner of Ninth avenue and Fifty-eighth street, would it not? A. Yes, sir.

Q Now, do you know Margaret Adams the colored woman; you have seen her, have you? A. Yes, sir.

Q Now, did you see your sister Emeline C. Reynolds after her death? A. I did.

Q Where did you see her? A. At the undertaking establishment.

Q Of whom, Joseph Kennedy? A. Of Joseph Kennedy.

Q Where was that? A. On West Broadway.

Q Now, what day was it you saw her? A. I think it was the 18th of August.

Q That was two days after her body was found? A. Yes, sir.

Q What day did the funeral occur? A. On the 19th.

Q On the 19th? A. Yes, sir.

Q What is your father's name, Mr. Reynolds? A. Edward Reynolds.

Q And your mother's? A. Christina Reynolds.

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Q Did you see your sister at any time before the 15th of August? A. I saw her on the 31st of July last.

Q You did not see her at any time between those two dates? A. No, sir.

Q Where was she buried? A. At Evergreen Cemetery, Long Island.

( No Cross Examination . )

J A C O B E. B A U S C H, a witness called on behalf of the People, being duly sworn, testified as follows:

D i r e c t E x a m i n a t i o n .

BY MR. OSBORNE:

Q You have been a Coroner of the County for how many years?

A. Since January 1st, 1898.

Q You were the Coroner, were you not, in charge of the autopsy upon the body of Emeline C. Reynolds? A. Yes, sir.

Q And that autopsy was performed, was it not, at Room 84 in the Grand Hotel, New York City? A. Yes, sir.

Q Now, what time did you get to the hotel? A. At about 10 A. M., about ten o'clock in the morning.

Q You got there as early as ten o'clock? A. Yes, sir.

Q Now, when you got there, how did you find the room? A. In what respects, Mr. Osborne?

Q Was it open or locked? A. The door was opened; a number of police officers had already assembled.

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Q The police were in charge of the case when you got there?

A Yes, sir; Captain Price, I think, had summoned me.

Q Was Captain Price there at the time? A Yes, sir, and Captain McClusky also.

Q Well, who performed the autopsy, you or Dr. O'Hanlon? A Dr. O'Hanlon performed the autopsy. I prepared the body for the autopsy.

Q You prepared the body? A Yes, sir.

Q Now, will you tell us all that you saw when you got there, Coroner? A Upon arriving there, as I stated before, I found a number of police officers in charge. At one side of the room directly in front of the bed I found the body of a young woman lying, her face partially buried in the floor.

Q You mean, her face turned down on the floor? A Yes, sir, sideways, partially. I observed two scalp wounds on the head. I forthwith proceeded to telephone Dr. O'Hanlon to come with all possible haste to perform the autopsy. I found a pool of blood also at the head of the sofa that was on the opposite side of the room and also a pool of blood where the body was lying at the time. As soon as Dr. O'Hanlon arrived we thought it wise also to send for an undertaker to aid us in preparing the body for the autopsy. I disrobed the body then, and while we were removing the corset, I found sliding from the body a number of small bills. The

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were gradually opening, and within the small bills I found a document, which subsequently proved to be a check. I went to the window to see the signature on the face of the check, read it carefully, and also that it was made ----

THE COURT: You must not tell us what was on the paper.

Q You looked at it well? A. Yes, sir; I took a good look at the check.

Q Go right on? A. And I thought it possibly had some bearing ----

Q Do not tell us what you thought and do not tell us what you read. A. Well, I took the paper and went into the other room in which Captain Price was situated making out some report, and I presented him the bills and also the check or paper that I found upon the person.

Q Now, where did you find this paper and the bills? A. The bills were just in the act as I ----

Q Do not tell us what they were doing, but tell us where you found them? A. Inside of the corset.

Q Inside of the corset? A. Yes, sir, in front, I believe the ladies call it a vest that they wear and the corset, to the left of the body directly in the region of the heart.

Q Was it under the corset? A. Yes, sir, under the corset.

Q That is, it was between the corset and the chemise? A. Yes, sir, between the corset and the chemise I would say.

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- Q Between the corset and the chemise? A. Yes, sir.
- Q In order to get it you took the corset off? A. We had to  
out the corset.

MR. MOORE: I object to that, if your Honor please, and  
I move to strike it out, upon the ground that it  
calls for the conclusion of the witness.

THE COURT: Objection overruled. Motion denied.  
Exception.

- Q Now, Coroner, will you indicate on your body where that check  
was found? A. About here (indicating).
- Q Now, was there anything else that you observed, sir? A.  
I also noticed that on one of the ears, I could not tell  
whether it was the right or the left, I cannot say, that  
there was a laceration. May I state my impression at that  
time?

THE COURT: Yes.

THE WITNESS: My impression when I saw that was that  
somebody had forcibly detached an earring, or some  
article of jewelry that was in the ear, at that time,  
and as if it was done in great haste.

- Q How about the other ear? A. I did not notice any laceration  
of the other ear.
- Q Did you notice anything else about the room at all? A. I  
noticed that the bed was not disarranged or disturbed.

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- Q The bed was not disarranged or disturbed? A. No, sir; and the lady was in street attire.
- Q Was her clothing disturbed at all? A. Well, somebody evidently had been near the body before my arrival.
- Q What do you mean by that? A. I mean by the clothes, the dress was up somewhat.
- Q Somebody had been there? A. Somebody had been around the body before my arrival.
- Q It was completely dressed? A. As if ready, with the exception of the hat.
- Q Completely dressed, with the exception of the hat? A. Yes, sir.
- Q Did you notice anything else in the room at all? A. I noticed the weapon.
- Q You saw something. Just describe that, will you please? A. A piece of lead with some kind of tape on it.
- Q A piece of lead with bicycle tape on it? A. With some kind of tape wound about it.
- Q (People's Exhibit 17 is shown to the witness). A. The tape is not on there any more; it was similar in appearance to that.
- Q There were no cuts in it at that time, were there; I mean, the instrument was solid? A. Not at that time, I did not see any cuts.

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- Q It was solid at that time? A. Similar to that in appearance.
- Q Were those cuts in it there at that time? A. No, sir, it was compact.
- Q You say there was not? A. Yes, sir, I am positive there was no cuts in it at that time.
- Q Those cuts? A. No, sir, these were not in it at that time.
- Q It was the same thing with tape over the end of it? A. Yes, sir.
- Q Did you notice anything else, Coroner? A. Not that I can recall distinctly, now, Mr. Osborne.
- Q Did you notice a bag there? A. That had been taken possession of by the captain.
- Q You saw it though, didn't you? A. Yes, sir, I saw it.
- Q Did you see a pocketbook? A. I believe I saw that in that room or the adjoining room; Captain Price used that room, I believe for the purposes of a private investigation and making up his reports.
- Q I show you Exhibit 20 for identification and I ask you if that is the check that you found upon the body of the woman?
- A. I would say yes.

MR. OSBORNE: I offer that in evidence, if your Honor please.

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THE COURT: Show it to the other side.

MR. MOORE: No objection.

(The check referred to was marked People's  
Exhibit Number 20, May 16th, 1901).

- Q What did you do with the check, Coroner? A. I delivered it at once to Captain Price.
- Q You examined it carefully at the time, did you? A. Yes, sir.
- Q You saw the amount of it? A. Yes, sir, I saw the amount of money stated on the check.
- Q Did you see to whom it was payable? A. Yes, sir.
- Q You saw the name on the back, did you? A. Yes, sir.
- Q At the time you looked at it carefully? A. Yes, sir, most carefully.
- Q You handed it instantly to Captain Price? A. Yes, sir.
- Q You saw the bank upon which it was payable? A. Yes, sir.
- Q You know that is the check? A. Yes, sir, positive.

THE COURT: It is in evidence.

MR. OSBORNE: But I must try my case with reference to the minds of the jurors. One of the jurors said he did not hear the question and answer. It was read and the Coroner said, "I would say yes". Now, I knew and he knew that he was not positive and I wanted him to say so.

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MR. MOORE: There will be no question raised about that being the check.

Q Coroner, how much was the amount of the bills you found there under the carset? A. I am not positive; I think eight or nine dollars.

Q Something like that? A. Eight or nine.

C r o s s E x a m i n a t i o n .

BY MR. MOORE:

Q Did you notice whether the lobe of the other ear was pierced?

A. No, sir, I did not.

Q You did not notice anything with reference to that? A. No, sir.

Q Now, what was the first thing that you did with the body, Coroner, after you got there? A. To look for marks of violence.

Q Well, you looked for the marks of violence and then did you place the body upon the operating table? A. Not until forty minutes after my arrival, until the undertaker and Dr. O'Hanlon could be summoned.

Q Until the time you had placed the body upon the operating table, you did not discover the bills or the check, did you? A. No, sir.

Q And the bills were of what denomination? A. I believe most of them were one dollar bills.

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- Q And inside of the bills was a check? A. Yes, sir.
- Q As if the bills and check had originally been laid out in a horizontal position and then rolled together in this manner (indicating)? A. Well, I would say that the position that it occupied was that the check was placed on the bills while in a horizontal position, and then folded as you have described.
- Q They were rolled tightly together? A. Yes, sir.
- Q In a round roll and made quite a large roll, did they not?
- A. Well, as much as eight single dollar bills would make, Mr. Moore.
- Q Now, when you placed the body upon the operating table, the first thing that was done was to disrobe the body? A. Yes, sir.
- Q Who disrobed the body? A. Dr. O'Hanlon, Undertaker Joseph Kennedy and myself.
- Q You all were working at it jointly? A. Yes, sir.
- Q And together? A. Yes, sir.
- Q In disrobing the body, did you cut the clothing from the body? A. The greater portion of the clothing was cut from the body.
- Q Did you cut the waist that she wore and the corset cover?
- A. You mean the shirt waist that was worn by her?
- Q Yes? A. That was torn from the body.

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Q And the corset? A. That was cut with the aid of a knife.

Q And it was not until after you had cut or torn the waist away and cut the corset, that you discovered the money? A. At that moment, yes, sir.

Q At that moment? A. Yes, sir.

Q Now, at the moment you discovered the money, was it in a moving position? A. It was about sliding from the body.

Q Was it moving? A. Yes, sir.

Q So that its original position you are unable to state, are you not? A. I am not in a position to say that.

Q You of course don't know whether originally it was tucked in this small round roll inside of the shirtwaist or not, do you? A. No, sir; all I can say is that it was on the left side of her body.

Q You don't know whether it was originally tucked in upon the top of the corset in a roll, do you? A. If it was on the top of the corset, we would have seen it before we removed the corset.

Q I don't mean on the top, I mean in the breast lobe of the corset? A. If it was within two or three inches beneath the top of the corset we would have observed it before removing the corsets; my inference is it must have been about the center of the corset.

MR. MOORE: I object to your inferences, and move to

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strike them out.

THE COURT: Yes, sir.

- Q The corset was covered with a corset waist, was it not? A. I cannot recall that, Mr. Moore.
- Q Well, if the corset were covered with a corset waist, would you then have discovered it before severing the corset waist and corset? A. If it was next to the top of the corset.
- Q Could you see through the corset waist? A. I could look beneath it for about two or three inches.
- Q Well, did you? A. We did, yes, sir.
- Q Before you cut the corset? A. Yes, sir; because we had already removed the garments above on the neck, we had already torn the chemise on the neck.
- Q Were you looking for anything of that kind? A. We had not any special purpose at that time.
- Q When you were doing that, your intention when you were doing that it was simply that of disrobing, was it not? A. Looking for contusions and bruises.
- Q And disrobing? A. Yes, sir.
- Q Now, you would not look for a contusion under the corset, would you, until after you had removed the chemise? A. Not at all, sir.
- Q So that when you were in the act of removing the corset you were not looking for contusions then, were you? A. In

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removing the corset, that was done for that purpose to see whether there were any marks of violence in that region of the body.

Q Now, didn't you cut the corset down through the front? A. Yes, sir.

Q And then threw it back? A. Yes, sir.

Q And it was not until after you cut the corset in this manner and threw it back that you discovered the roll of money and the check? A. Yes, sir, that is right.

Q Then it was falling down towards the side of the body? A. Yes, sir.

Q And the body was laying upon its back, wasn't it? A. Yes, sir.

Q Where you found the money, Coroner, was that at the point of tight lacing of the corset? A. Well, if you will permit me to describe on my body I would show you.

Q Do you know whether it was or not? A. Well, I cannot answer, the section of the body that the ladies suffer mostly from tight lacing.

Q Do you know whereabouts on the body of that person the corsets were pulled tightest? A. I would say about this section of the body (indicating waist).

Q I ask you if that was at or very near the point of tight lacing? A. Just above that.

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Q About how much above it? A. Possibly two inches. I believe I described before about here is where I found it (indicating).

Q And it was at a point of close lacing, was it not? A. At about that point (indicating).

J O S E P H G. G R E G O R Y, a witness called on behalf of the People, being duly sworn, testified as follows:

D i r e c t E x a m i n a t i o n .

BY MR. OSBORNE:

Q Mr. Gregory, what is your business, sir? A. Night clerk at the Hotel St. Andrews.

Q Where is the Hotel St. Andrews? A. Seventy-second street and Broadway.

Q How long have you been night clerk at the Hotel St. Andrews? A. About two years and a half.

Q The night clerk has practically charge of the hotel, has he not? A. Yes, sir.

Q How long have you been a night clerk? A. Well, about three years.

Q Did you ever occupy a position in the Grand Hotel in the County of New York? A. Yes, sir.

Q What was your position in the Grand Hotel on the 15th of August, 1898? A. Night clerk.

Q On the morning of the 16th of August, 1898, did you see any

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human being go out of that hotel? Answer yes or no to that? A. Yes, sir.

Q Have you ever seen the man that you saw come out of that hotel, since? A. Yes, sir.

Q When was the next time you saw him? A. The 16th of August.

Q What day? A. The same day.

Q Whereabouts? A. At the station house.

Q What station house was it? A. Thirtieth street.

Q And at the time you saw him at the station house, how many people were present? A. Well, about fifteen or sixteen.

Q At the time that you saw him, did you go over to the station house with anybody or go alone?

MR. MOORE: I object to that as leading, as suggesting.

THE COURT: Whether he went alone, I do not think that is leading. I will allow it.

MR. MOORE: He asks if anybody went with him or if he went alone.

Q Did you go alone or go with somebody else? A. I went with some one.

MR. MOORE: Objected to as leading and suggestive.

Objection overruled; exception.

Q Who went with you? A. I don't just remember who the party is.

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- Q Was it a man or woman or a number of people, which? A. A man.
- Q One person? A. Two persons.
- Q Two persons? A. Yes, sir.
- Q Two persons went with you? A. Yes, sir.
- Q Now, at the time you saw the defendant, or saw the man you claim to have seen on the morning of the 16th, at the station house, in what room did you see him?

MR. MOORE: I object to that as immaterial.

THE COURT: A room where?

MR. OSBORNE: In the station house.

THE COURT: Objection overruled.

Exception.

A. I saw him in the middle room, I think, or in the back from the front room.

- Q At the time you saw him state whether he was alone or in a crowd?

MR. MOORE: I object to that, if your Honor please, upon the ground that it is incompetent, immaterial and inadmissible, and the witness cannot bolster up or strengthen his identification by the proof of a subsequent identification.

Objection overruled; exception.

A. In a crowd, I should judge, about fifteen or sixteen

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people.

Q Did you ever see the man that you saw at the station house and at the Grand Hotel, at any other time after that?

MR. MOORE: I object to that as immaterial, incompetent and improper.

Objection overruled; exception.

A. I have seen him in court.

Q When was the next time you saw him in court? A. I saw him at the police court in Fifty-fourth street.

Q About how long after that? A. Well, a week or so; I don't just remember the time.

Q Do you see him now? A. I do.

Q Where is he? A. The defendant.

Q Mr. Gregory, what is the extent of your mind about whether this is the man or not?

MR. MOORE: I object to the form of the question as improper.

THE COURT: Objection sustained.

Q Are you positive or not that this is the man? A. I am quite positive.

Q Now, Mr. Gregory, at the time that you saw the man on the morning of the 16th, state where you were and take the diagram, please? A. I stood in here at this corner of the opening (indicating). There was a desk right there, the

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cashier's desk, and from this point to this point (indicating) I stood at the far corner looking out through this opening between these two posts.

Q What is the width of the opening between those two posts?

A. Nine feet.

Q Nine feet? A. Yes, sir.

Q Now, may I get you to just take a lead pencil and point or put a little dot as to where you stood, Mr. Gregory? A. (The witness indicates).

Q From that point you could see down the corridor leading out into Broadway? A. Yes, sir. The desk is a little back from the post. I was just looking over a little between the post, or around the post, and I could see into the main entrance out to Broadway.

Q When did your eye first get on to the man when you saw him?

A. When he first appeared about there (indicating), coming around there from this direction to this post. He came in my sight just about in there (indicating).

Q Well, you take the lead pencil and mark the line of your views. Now, you mark that G; your name is Gregory, isn't it? A. Yes, sir.

Q Now, that is where you first caught sight of the man; is that right? A. Yes, sir.

Q At the part of this map or diagram marked "G"? A. Right

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there (indicating).

Q Now, you take the lead pencil and mark the track of the man as he went out of the hotel? A. (The witness does so).

Q Now, then, from what point was the entire distance that you saw that man, from "G" to where? A. To the Broadway entrance, entering out on Broadway.

Q You saw him from "G" to the Broadway entrance? A. Yes, sir.

Q Is that right? A. Yes, sir.

Q Now, what was the first thing that attracted your attention?

A. Footsteps on the stairs over my head.

THE COURT: Have you fixed the hour?

MR. OSBORNE: No, sir, but I will.

Q Footsteps on the stairs above you? A. Yes, sir.

Q Well, just state exactly what occurred, from that point on. You heard footsteps; tell us what happened? A. Well, I heard footsteps and that attracted my attention and then he went down the other stairs, two stairs, and an elevation, you know, where there is a little observatory over my head and down the other stairs, and the sound disappeared for about a minute, you might say, and then the person came in sight.

Q You heard a noise coming down and then it stopped for a minute and then a man appeared? A. Yes, sir. There is

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carpet on this elevation, so I did not hear the footsteps on the carpet, but heard him passing the last flight of stairs. There are two flights, one down to the elevation and the remainder of the stairs down to the floor leading to the Thirty-first street entrance.

Q Now, Mr. Gregory, did you have charge of the hotel that night?

A. Yes, sir.

Q Now, will you tell me, about as near as you can, about what time it was? A. About two o'clock.

BY THE COURT:

Q In the morning? A. Yes, sir.

BY MR. OSBORNE:

Q Is that an estimate? A. That is an estimate.

Q An estimate? A. Yes, sir.

Q How do you estimate that time? A. Well, I have to make up the bar bill after the bar closes. I get the checks from the bar that they ring up from the bar.

MR. MOORE: I object to that as immaterial, improper, and hearsay as against this defendant.

MR. OSBORNE: This is only fixing the time.

THE COURT: Allowed.

Exception.

THE WITNESS: And it took me about one hour after that or somewhere in that neighborhood, about one hour to

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straighten out that bar account.

Q Had you finished fixing your bar account? A. Yes, sir, about finished it.

Q So that it usually takes you about an hour to fix up your bar account? A. Yes, sir.

Q Some time, I suppose, when business is light, it takes less? A. It might do that.

Q And sometimes it might take more? A. It might take more.

Cross Examination.

BY MR. MOORE:

Q Mr. Gregory, you have been sworn upon each of the previous trials, have you not? A. Yes, sir.

Q Upon both of those trials, didn't you say that it was between 2 and 2.30 in the morning when he came down? A. Between about two ----

Q Just a moment; I want you to answer that.

MR. OSBORNE: The exact language of the witness can be found.

THE COURT: Let the witness finish his answer.

MR. MOORE: I submit the Court should instruct him that he should answer the question yes or no.

THE COURT: I certainly shall. Answer yes or no if you can.

MR. OSBORNE: Objected to, upon the ground that it is

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not exactly stating the language of the witness at the two previous trials and that the minutes of the Court are here and that it is unfair to the witness.

THE COURT: If there is any dispute as to that, refer to the minutes.

MR. OSBORNE: Here are the minutes right here. Why can't you read what he says? I will consent that it go in evidence.

MR. MOORE: I will read from the first trial and the second trial. I can only find one page of his examination.

MR. OSBORNE: Look at Page 78.

MR. MOORE: Well, I would prefer to interrogate him as to it.

THE COURT: Interrogate him first and you may read it afterwards.

Q Did you upon the first trial swear that it was between 2 and 2.30 o'clock when you saw the man coming down out of the room?

MR. OSBORNE: I object to that, on the ground that his testimony was ----

MR. MOORE: Objected to.

THE COURT: It is a proper question; I will allow it.  
Answer yes or no.

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A. Yes, sir, on the first trial.

Q Didn't you swear to the same thing on the second trial? A. Between 2 and 2.30, about 2 o'clock, it might be 2.30; that is the way I swore the last trial.

Q Now, did you know when the elevator ceased to run in that hotel in the morning? A. Well, it runs all night.

Q Isn't there a time in the morning when it is closed up? A. No, sir, not that I know of.

Q Wasn't there at this time? A. No, sir.

Q Do you know who was operating the elevator on that particular night? A. Yes, sir.

Q Who? A. Lenehan.

Q Do you know when Mr. Lenehan leaves the elevator? A. In the morning about seven o'clock.

Q Is there any time when he is not compelled to remain at the elevator? A. No, sir.

Q Unless there is a call? A. No particular time that I know of.

Q Between two and five o'clock in the morning, is he not permitted to leave the elevator? A. Yes.

Q Unless he is called? A. No, sir, not to my knowledge.

Q Did you hear Mr. Lenehan swear upon the previous trial? A. Yes, sir.

Q Did you hear him give any testimony as to that? A. I do

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not remember hearing that.

Q Well, it was no earlier than two o'clock, was it? A. Well, it was somewhere about two o'clock; I could not say, somewhere very near two o'clock.

BY MR. OSBORNE:

Q One question I wanted to ask you. What kind of a hat did the man have on? A. A straw hat.

Q Do you know what kind of a straw hat? A. An ordinary straw hat.

Q That is the best you can say, is it? A. Yes, sir.

BY MR. MOORE:

Q You did not get a very good view of the man you saw going out of the hotel? A. I got a good, fair view.

Q Did you get a good view? A. Well, no, a kind of a side view; he came two-thirds towards me.

Q You did not see him full in the face? A. I did not see him full in the face.

Q Upon the former trial was this question asked you: "I ask now what was his manner of leaving the hotel? A. I saw him walking out; I saw the side of him, I did not see him full in the face".

MR. OSBORNE: I object to that, upon the ground that that is just exactly what the witness said this morning.

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THE WITNESS: I saw the side of his face, I meant to state, as I state now.

Q Did you answer just what I asked you? A. Well, yes, sir, I saw the hat ----

Q At that time was he wearing a hat upon his head? A. Yes, sir.

Q Was it upon the side of his head? A. a trifle over the side of his head.

Q And upon the side towards you? A. The side towards me.

Q And didn't that in some measure tend to obstruct a good view of his face? A. Well, it did not hide very much of his face.

Q Did it in some measure tend to obstruct a good view of his face? A. Well, not the lower part of his face.

MR. MOORE: Can I get a responsive answer to that, if your Honor please?

THE COURT: What is the answer?

THE WITNESS: I saw half of his face. The hat was on his head so as to hang on. A straw hat cannot be down over a man's face and sit good on.

Q Now, then, did he also have his hand up to his head holding the hat over the side of his face? A. No, sir.

Q Are you positive of that? A. Yes, sir.

Q Did you hear the evidence of Mr. Lenehan as to that upon the

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former trial? A. I did not.

Q Mr. Gregory, when you got over to the police station, who was there, from the Grand Hotel, if you recollect? A. I cannot recall any other from the grand Hotel.

Q Do you know whether any one was there or was not? A. No, sir.

Q On these two occasions, or rather, on this night of the 15th of August, that was the first occasion that you had ever seen the man then leaving the hotel, was it? A. I don't quite catch that question.

Q Was the night or the morning of the 15th -- the morning of the 16th of August, the first time that you ever saw the man that was leaving the hotel? A. Do you mean this man?

Q I mean that man? A. That man?

Q That man? A. I cannot answer that; I don't understand it.

Q You don't know whether you had ever seen the man that was leaving the hotel between 2 and 2.30 o'clock in the morning, prior to that time? A. No, sir, not that man; I don't know what you mean by that man.

Q I mean the man who was then leaving the hotel? A. Well, that is the only one I saw that night.

Q Had you ever seen that man before? A. No, sir.

Q Well, then, say so? A. I do; I did not understand the question.

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Q Now, Mr. Gregory, let us refer to that map again. How far did you say the desk was from the post at the end of the counter? A. You mean the desk extending back from the post?

Q I mean that desk in the corner of the room, of the office?

A. The desk that I was standing by was not in the corner of the office.

Q Where was it? A. I was standing on the corner of the desk at the post.

Q No, but where was the desk? A. The desk came out to here, just past this post.

Q Are you sure of that? A. Yes, sir.

Q Did the desk come clear out to the post? A. Yes, sir, about out by the post.

Q How long is that desk? A. I don't know just how long it is; it goes out through the cashier's desk and to this door.

Q Tell us about how long it is? A. I should judge the desk was about six or seven feet or five or six feet, somewhere in that neighborhood, as near as I can recall.

Q Is it ever over, is it an inch over that? A. I would not say, I did not measure it, I do not remember just now.

Q You were standing back of that desk, weren't you? A. Standing right at the corner of this desk, not back of it

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but just about on the corner.

Q And you were counting the money? A. I was not counting any money.

Q You say you were just finishing your work? A. Just fixing the bar account; I had no money in my hand, the money was put away.

Q You got over on the corner of the desk to count the money?

MR. OSBORNE: Objected to.

THE COURT: He has stated he had no money there.

Q You were just finishing that work and the money was not put away?

THE COURT: He said the money was put away.

Q Was it put away, Mr. Gregory? A. Yes, sir.

Q Were the books put away? A. The books laid right there on the desk.

Q Were you working at the books? A. I was not.

Q Had you been? A. I had.

Q You did not finish your work upon the books? A. I did not, on some other books that I had to work on.

Q You finished your work upon the books? A. I had finished my work upon the bar book.

Q Had you finished your work upon the books that you were required then to work upon? A. I had other books to work upon that I had not finished.

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- Q Were they before you? A. They were laid over to one side of the bar book and the bar book was before me.
- Q Were they upon that desk? A. They were, yes, sir, scattered around there.
- Q And regardless of that fact, you now say that you had gone from in front of the desk over to the corner of it? A. I stood right on the corner to work at that bar book. It laid right in front of me.
- Q Were you at work on the bar book then? A. I had been working on the bar book and just left it right there when I heard the footsteps.
- Q Did I understand you to say that you stood right at the corner working on the bar book? A. I had been working with it and I just got through with it, I said.
- Q Did you understand that declaration just now, that you stood on the corner working on the bar book? A. I did not understand that, no, sir.
- Q Then you did not mean to say that? A. I had been working there.
- Q You had been working there? A. Yes, sir.

(The stenographer read the last four questions and answers).

(Question repeated) A. (No answer).

THE COURT: Proceed with your question.

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MR. MOORE: If there is any misunderstanding as to the declaration that the witness has made, then I ask to have both statements read to the jury at this time, there seeming to be a misunderstanding as to that.

Q Now, Mr. Gregory, how long since you had stopped work on that night? A. I just stopped.

Q You stopped because of a man coming into the room, did you not? A. I did not see any man coming into any room; I don't know what room you mean.

Q Well, into the office? A. I don't understand that question.

Q Or Corridor; you don't know what office or corridor means? A. Yes, sir, I do. I don't know what direction you mean or what man you mean that is coming into the office.

Q A man about whom you have been giving testimony as to seeing pass through that office between 2 and 2.30 o'clock in the morning? A. I stopped working on the book when I heard the footsteps on the stairs.

Q Did you change your position? A. I stepped about a foot over to the counter.

Q Did you upon either of the previous trials state anything about stepping away from the desk? A. I don't remember as to that; I don't recall.

Q Don't you know you have not? A. I cannot recall.

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Q Don't you know you have not? A. No, sir, I don't know, I cannot recall exactly.

Q That is, you cannot recall having testified that you stepped away from the desk; is that it?

MR. OSBORNE: Objected to, on the ground that he may never have been asked about it.

Objection overruled.

A. I cannot remember as I was asked or testified at the former trial to that.

Q Now, Mr. Gregory, you don't mean to say that you could see this man until he left through the exit at the Broadway entrance, do you? A. Yes, sir.

Q Did you go further away from the desk while he was going down to the Broadway entrance? A. No, sir.

Q Isn't the whole of that desk back of a partition obstructing the view to the corridor leading down to the Broadway entrance? A. No, sir.

Q Wasn't it at that time? A. No, sir.

Q You are positive of that? A. Yes, sir.

Q Well, after this man gets into the Broadway entrance, as you say, you could not see any of his face, could you? A. No, sir.

Q All you could see then, would be his back? A. That is all

BY MR. OSBORNE:

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Q Who is the proprietor of your hotel? A. William G. Leland

Q Of the St. Andrews? A. No, sir.

Q Of the St. Andrews? A. Mr. Robertson.

Q Mr. Robertson? A. Yes, sir.

Q What is his first name? A. Andrew.

Q He has nothing to do with the Grand Hotel management, has he? A. No, sir; I thought you were speaking about the Grand Hotel.

BY THE FOURTH JUROR:

Q From the time that man came into your view, could you follow his movements until he reached that door, without moving your position from behind that desk? A. I did.

Q How long was his side face within your view? A. About half a minute or so.

Q Was he walking rapidly? A. No, sir; he was walking, not very fast, rather slowly.

BY MR. OSBORNE:

Q About two or half past two; is that what you swore to before?

A. Yes, sir.

THE COURT: He has sworn to that to-day.

M I C H A E L L. K E A R, a witness called on behalf of the

People, being duly sworn, testified as follows:

D i r e c t E x a m i n a t i o n .

BY MR. OSBORNE:

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- Q Sergeant Kear, on the morning of the 16th of August, 1898, were you at the Grand Hotel? A. Yes, sir.
- Q What time of day did you get there? A. That was about ten o'clock in the morning.
- Q Tell us what occurred there that morning? A. I went there with Captain McClusky, and when we got to that room, Room 84 in the Grand Hotel, why, we saw the body of a woman there, and there was some scraps of paper on the floor and on the window sill, which Captain McClusky told me to pick up and he picked up some of them himself, and we put them in an envelope which I marked for identification. I took the envelope with me that day and gave it to him that night in the Thirtieth street station house.
- Q Did you put it together? A. Captain McClusky put it together between two pieces of glass.
- Q Did you see it? A. Yes, sir.
- Q When it was done? A. Yes, sir.
- Q Would you be able to identify it? A. Yes, sir.
- Q I show you People's Exhibit Number 38 and I ask you if these are the scraps of paper found in the room that you put together? A. Those are the scraps of paper that Captain McClusky put together.
- Q But those are the ones that were picked up partly by him and partly by you, put in an envelope by you, taken by you to

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the station house and pasted together? A. Yes, sir.

Q Is that it? A. Yes, sir.

MR. OSBORNE: I offer them in evidence.

THE COURT: Show them to the other side.

MR. MOORE: No objection.

(The paper referred to was marked People's  
Exhibit Number 38, May 16th, 1901).

MR. OSBORNE: I read to the jury the check: "No.

1226. New York, Aug. 15, 1898. Garfield National  
Bank, Twenty-third street and Sixth avenue. Pay to  
the order of Emma Reynolds Thirteen thousand dollars  
\$13,000," and a name I cannot read or cannot make  
out, "Gideon".

MR. MOORE: I have examined it carefully, and we char-  
acterize it as "Dudley Gideon".

MR. OSBORNE: On the back of it is signed, "E. J.  
Kennedy". Do you concede you tore that check, Mr.  
Moore, at the last trial?

MR. MOORE: I don't know it is torn. Anyhow, that is  
the check.

Q Sergeant, did you see anything else there? A. (No answer)

MR. OSBORNE: I read Exhibit Number 38. On the front  
of it is "E. Maxwell and wife, Grand Hotel." On  
the back is R x. Phillips Milk of Magnesia, 18

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575  
ounces.\*

Q Sergeant, did you have anything more to do with the case than that? A. Nothing.

Q That ended your connection with it? A. Yes, sir.

Q Did you see the lead instrument here? A. I have seen the lead instrument, but I don't remember anything about it.

Q That is all you had to do with it? A. Yes, sir.

(N o C r o s s E x a m i n a t i o n ).

F R A N K E. T O W L E, J r., recalled:

BY MR. OSBORNE:

Q Mr. Towle, did you go to the Grand Hotel this morning? A. Yes, sir.

Q Did you measure the space between the posts?

MR. MOORE: I object to that, on the ground that it is improper, incompetent and too remote.

Objection overruled.

MR. MOORE: There is no evidence that it is now in the same condition as it was in August, 1898.

THE COURT: That objection is sustained.

Q Is it in the same condition it was when you made that diagram?

A. They are.

Q Now, then, did you measure the distance between the two posts? A. Yes, sir.

Q What is the distance? A. Nine feet.

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- Q Now, assuming that a person was standing there (indicating) at that spot at the end of the desk -- is the desk in the same condition now that it was, the desk in the hotel?

MR. MOORE: I object to that, upon the ground that the witness already stated that he did not know where the desk was or what its position was, and he cannot state that it is now in the same position that it was then.

Objection overruled; exception.

- Q Is the desk in the same condition? A. The desk is in the same condition as it was at that time, because this part of the partition ----

MR. MOORE: I object to the "because" and move to strike it out.

THE COURT: Motion granted.

- Q Just describe the desk, if you please? A. The desk is a shelf; made fast to this partition; and of such height that a high stool has to be used in sitting at the desk. The desk is a continuation of this counter and goes or continues from this point to the post around the partition to the door.

- Q Now, is there any break to the desk about that point? A. The desk separates at the counter.

- Q It separates at the counter? A. Yes, sir.

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Q Now, a person standing at the end of that desk, how much of that could they see of that corridor? A. Why, by a slight movement of the head he could see all the corridor, keeping his head perfectly plumb or straight he could see half the corridor down to the Broadway entrance.

BY THE SIXTH JUROR:

Q A person standing on the extreme side of that corridor could not be seen from that desk? A. A person standing at this point.

Q They could not be seen on the extreme other side of the corridor? A. He could see this point where my pencil stands from the desk.

Q He could see plainly? A. Yes, sir.

BY MR. OSBORNE:

Q You say with a slight movement of the head you could see the whole corridor down to the Broadway entrance? A. A very slight movement of the head, not moving the body, you could see through to Broadway. You could plainly see this point where I have my pencil now (indicating).

Q Without moving the head? A. Yes, sir.

Q If you moved your head you could see the whole corridor? A. Yes, sir, the whole corridor all the way through.

BY THE SIXTH JUROR:

Q From what point there? A. From that point (indicating).

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Q From the staircase that goes beyond that? A. (No answer).

BY MR. OSBORNE:

Q You cannot see the staircase at all, can you? A. The staircase is at point A (indicating).

Q That is behind, you cannot see that? A. A person cannot see that point from here until after the person has walked beyond this point, as shown by the pencil (indicating); then a person comes in view and remains in view all the time until he gets in this position (indicating), unless the head is moved. Then if the head is moved he could continue seeing the person until they get out of the Broadway door.

BY MR. MOORE:

Q I suppose by that that a person standing behind that post could look out to one side of it? A. Yes, sir.

Q But if he is standing over in the center of the desk working on books, then he could see all the way down to the Broadway entrance? A. No, sir, he could not.

Q And if he is back of that desk at all can he see all the way to down the Broadway entrance? A. No, sir.

Q Now, there is another desk, is there not, in there, that is not a part of the frame work? A. There is an inner office.

Q Yes, in that corner is there a desk there? A. There is no other desk there.

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Q Isn't there a desk that is not a part of the frame? A. No, sir; this is a shelf, a shelf made fast.

Q Outside of this shelf, isn't there a desk? A. There wasn't any when I saw it this morning.

Q Do you know whether there was one there in 1898 or not? A. No, sir, I do not.

GEORGE W. McCLUSKY, a witness called on behalf of the People, being duly sworn, testified as follows:

D i r e c t E x a m i n a t i o n .

BY MR. OSBORNE:

Q Captain McClusky, you were the Chief of the Detective Bureau of this county in 1898, were you not, sir? A. I was in command of the Detective Bureau, yes, sir.

Q How many years had you been in command? A. Three years at that time.

Q Before that you had been on the Police Force how long? A. Seventeen years in the Bureau.

Q As a detective sergeant? A. Yes, sir.

Q And you had been on the force altogether about how many years? A. Going on twenty years.

Q You are now the captain of what precinct? A. The Ninth Precinct.

Q You were called into this case on the morning of the 16th of August, 1898, were you not? A. Yes, sir.

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- Q What time did you get down to the Grand Hotel? A. Eleven o'clock.
- Q When you got there, Captain, what did you discover, what did you find when you got there; tell everything? A. I went up into a room on the fourth floor.
- Q Room 84? A. Yes, sir, on the fourth floor, and in the room was Captain Price, Mr. Leland, and the dead body of Dolly Reynolds.
- Q You did not know her name at that time, did you? A. No, sir the dead body of a woman.
- Q Captain, you have never had any acquaintance with the woman, have you? A. No, sir.
- Q Never saw her? A. No, sir, not to my knowledge.
- Q You mean, you afterwards discovered it to be Emeline Reynolds? A. Yes, sir.
- Q Now, just tell all that you observed, will you please? A. The body was lying on the floor. On the table was a bag, which had apparently been cut, and a lot of cards. On the sofa was a sailor hat, a straw sailor hat, and on the table was a leaden bludgeon, a leaden pipe, a piece of lead pipe.
- Q I show you People's Exhibit 15; is that the bag? A. Yes, sir.
- Q I show you People's Exhibit 16; is that the clothing? A. Yes, sir.
- Q And People's Exhibit 17, is that the lead instrument? A.

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Yes, sir; this was not in the condition it is now in.

Q The instrument at that time was whole? A. It was whole.  
And at the end of it it was bound around with a lot of tape.

Q Captain, please answer? A. It was entirely whole.

Q Entirely whole? A. Yes, sir.

Q The instrument was? A. Yes, sir, and the end of the instrument, not on the crook end but on the other the thick end, was a lot of tape, generally called bicycle tape, with a sticky substance and blue marks on the tape.

Q Proceed, Captain? A. I searched the room, and in the room by the easterly window there was a small paper basket and in the paper basket was some scraps of paper and on the ledge of the window were some scraps of paper which I picked up and handed to an officer who was in the room, which was afterwards fitted together.

Q That was Kear who has just testified? A. Sergeant Kear who has just testified.

Q You know the exhibit, don't you, Exhibit Number 38, don't you? A. Yes, sir.

Q Is that it (showing witness People's Exhibit Number 38)? A. Yes, sir.

Q At that time, Captain, had the check been found? A. No, sir.

Q The autopsy had not been performed at that time? A. Were you

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there when the Coroner came? A. No, sir, I was not there when the Coroner came.

Q Coroner Bausch? A. Yes, sir.

Q Were you there when this check was discovered upon the body of the woman? A. No, sir.

Q You had gone at that time? A. I had left the hotel.

Q Now, Captain, tell us the next thing that occurred that you know of the case? What did you do the next day, sir? A. In the neighborhood of about five o'clock that afternoon I received word over the telephone that Kennedy had been arrested and was then in the Nineteenth Precinct station house. I went up there. I went in Captain Price's room and sent for Kennedy. He was brought into the room, and in the room at the time was a stenographer, Edward Hughes, and two officers, I think Detective Carey and Detective Davis. I had a conversation with the prisoner?

Q State what it was? A. I asked him his name and he told me. I asked him if he was a doctor and he said yes, he was a dentist. I asked him where is the office, and he said 60 West 22nd street. I asked him if he had been in the Grand Hotel, the night before, and he said no. I asked him if he knew Emeline G. Reynolds and he said yes, that she was a patient of his. I asked him when was the last time he saw her. He said Thursday or Friday of the week previous. He

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said that he had treated her. I ask him what time he got to his office the morning previous to the day the body was found, which would be the 15th, I think, and he said in the neighborhood of eleven o'clock. That he had left his home in Staten Island in the neighborhood of nine o'clock in the morning and arrived in his office in Twenty-second Street about eleven o'clock. That he remained in his office all day attending to his business till about six o'clock. That he then left his office. He said that he had left his office and that his father had left earlier than his usual time that night. That he had gone to Proctor's theatre, that he thought it was Proctor's Theatre. That he remained in Proctor's Theatre till eleven o'clock or after, until the performance was over, that he then left the theatre, walked through Twenty-third street and took a Broadway car to South Ferry. That he took the 12.25 boat to Staten Island which brought him to St. George. That he took a trolley car at St. George which brought him to his home at New Dorp. That he arrived home possibly at 1.30 or about that time. I asked him where he had his lunch that day. He said that he did not have his lunch but he usually brought it with him. I asked him where he dined that night. He said he had not dined any where, that when he got home he had a cold supper. I asked him why he took the trolley car

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when he had a commutator's book which brought him to New Dorp and a train was waiting for the arrival of that boat, and he said he felt like riding in a trolley car. That was the conversation I had with him around five o'clock in the evening in the Nineteenth Precinct station house.

Q Well, Captain, did he at that time tell you about having gone to buy a suit of underwear? A. Not at that time?

Q He did not? A. No, sir.

Q Well, did you ask him something about his hat? A. Yes, sir.

Q Tell us what that was? A. I asked him what hat he had worn that day and he said he wore his derby hat, which he had on when he was arrested. I asked him what he was doing with the soft hat. He said it looked like rain in the morning and he wore his soft hat up from home to his office and carried his derby hat up in a valise.

Q He had a soft hat on when he was arrested? A. Yes, sir.

Q Is that the soft hat that he had on when he was arrested (Showing witness a hat)? A. Yes, sir.

MR. OSBORNE: I offer that in evidence.

(The soft hat was marked in evidence People's Exhibit 21, May 16th, 1901).

Q Did you notice whether that hat was on him that day or not? A. Well, I was not there when he was brought in. The

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other officers can tell you more about that than myself.

Q Now, Captain, when was the next time you saw the defendant?

A. The next time I saw him or the next time I spoke to him.

Q The next time you spoke to him? A. The next time I spoke to him was about in the neighborhood of midnight the same night he was in his cell in the Nineteenth Precinct station house.

Q Go on. Did you have a conversation with him? A. Yes, sir.

Q Go on.

MR. MOORE: Now, to this conversation, if your Honor please, the defendant objects, upon the ground that it is incompetent and inadmissible, for the reason at the time was that the defendant, under arrest, and it was not entirely a formal statement and was given under such a state of great mental excitement while under arrest charged with the crime of murder, that it is inadmissible.

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THE COURT: You can cross-examine this witness at this time if you desire.

MRS. MOORE: I do.

BY MR. MOORE:

Q Mr. McClusky, when you saw the defendant at midnight, prior to this talk you had with him, where was he? A He was in a cell in the 19th Precinct station house.

Q And this was at midnight? A Yes, sir.

Q Or possibly later? A Possibly later.

Q Was he there charged, under arrest, charged with the murder of Emaline C. Reynolds? A He was there under arrest on suspicion.

Q Charged with that murder, wasn't he? A He wasn't charged at that time, hardly.

Q Had he been permitted at this time to see counsel?

A No, sir.

Q Was counsel denied him at this time? A There was no request for counsel.

Q Are you sure of that? A (No answer).

BY MR. OSBORNE:

Q Was any made of you, Captain? A No, sir.

BY MR. MOORE:

Q Had he been denied the right to see his father? A His father had been denied the right to see him.

Q Had he been denied the right to see his father? A I don't

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think he requested to see his father.

MR. MOORE: I move to strike that out, if your Honor please, what he thinks.

THE COURT: Motion denied.

Q At this time was the defendant under considerable excitement?

A No more than would attend the circumstance of a man placed under arrest. He appeared normal.

Q Was he under considerable excitement? A Apparently not to me.

Q Do you know how many times he had been interviewed by the police between the time you saw him at 5 o'clock and the time you saw him at 12 o'clock? A Yes, sir.

Q How many? A Once.

Q Hadn't he been interviewed more than once? A I think not.

Q By whom? A Once by me and once by Captain Price, at 10.30 in the evening, or thereabouts.

Q Wasn't he interviewed by Detective-Sergeant Vallely during this night, prior to your seeing him that morning? A I am talking about the night, not the morning.

Q Well, it was between about midnight and the morning of the 17th? A I don't know.

Q You don't know how many times he had been interviewed?

A I know that he had been interviewed twice, as I have told you.

Q You don't know how many more? A No, sir.

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Q Do you know what was said at those interviews? A No, sir.

Q Do you know whether at that time anything had been said to him about the drawers he wore?

THE COURT: That is not the question now. I have only permitted you to cross-examine him for one purpose .

MR. MOORE: I am asking now to get at his mental state.

THE COURT: If it is part of it, I will allow it. I did not suppose it was from the nature of your question.

MR. MOORE: I think it is.

Q Did you know whether they had or not? A Previous to this conversation that I had with him at one o'clock, there must have been a conversation, for I sent Vallely and Lang to take his drawers off him.

Q Do you know whether or not those drawers had been exhibited to him and he was told that there was a stain of the bludgeon upon those drawers? A I did that myself; I don't know whether others did it.

Q And all this preceded the interview?

MR. OSBORNE: I object to "all."

A No, sir.

Q The taking of the drawers preceded the interview?

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A Preceded my interview with him, yes, sir.

Q And the calling of his attention to the stain upon them preceded the interview did it not? A I don't know whether they called his attention to it or not; they called my attention to it, and I went back and saw him and called his attention to it.

Q Now, as a result of these several talks and the statements that were made to him by you, by Detective-Sergeants Vallyely and Lang and Captain Price, was not this man in a state of almost nervous collapse at that hour of night? A To my mind, no, sir; he was apparently normal all the way through.

Q Not a bit nervous? A No, sir; he was cool, if anything.

Q Did his mind seem to be clear and rational? A Yes, sir.

Q Do you know whether he was advised as to whether he must make a statement or not? A Not by me.

Q Did you advise him that he had a right to refuse to make a statement and need not make it? A At that time I only had a conversation with him.

Q Did you advise him that he need not make any statement to you? A I did not.

Q Did you advise him that he had a right to employ counsel, to consult with counsel? A No, sir.

Q Do you know whether he had been advised by anybody that he had that right? A I don't know, sir.

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MR. MOORE: I submit the objection, if your Honor please.

THE COURT: It does not appear that any statement that the defendant made to this witness was made upon any promise or threat, or came through any compulsion or by any improper influence, and therefore the objection is overruled.

MR. MOORE: I think, if your Honor please, that is not the rule.

THE COURT: Yes; in the 159th New York.

MR. MOORE: But there is no place where the 15th New York, as far as I have been able to discover, has been overruled. The 15th New York holds that it need not be through threats or promises or hopes of reward, but if from the surroundings the condition of the mind is such that it is in a state of great mental excitement, so as to make the statements unreliable, it should be excluded for that reason. That is the language of the Court of Appeals in the 15th New York.

THE COURT: I have ruled.

Exception.

BY MR. OSBORNE:

Q Go on. A I sent Detectives Lang and Vallely back to the cell, to take his drawers off, and his trousers, and to

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search them for any marks, and they returned to me with his drawers and trousers, and on the drawers there was a --

MR. MOORE: I object to that.

THE COURT: That is not responsive to the question which the District Attorney asked and upon which I ruled. Let the Stenographer repeat the question to the Captain.

Q (Question repeated.)

THE COURT: Give the conversation you had with him at one o'clock.

THE WITNESS: I showed Kennedy the drawers that had been taken off him by the officers.

BY MR. OSBORNE:

Q Look at those and see if these are the ones. A Yes, sir, these are the drawers.

MR. OSBORNE: I offer them in evidence.

MR. MOORE: No objection.

(The drawers referred to were marked in evidence People's Exhibit No. 39.)

Q You showed him the drawers? A Yes, sir.

Q What did you say? A I told him there was a stain on his drawers and a mark which showed that the lead pipe had been hanging on them.

Q Is this what you refer to? Show the jury what you refer to.

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A I showed him this mark here, this mark down here (indicating).

BY THE SIXTH JUROR:

Q Was that portion of this bludgeon covered with bicycle tape?

A The lead portion of the bludgeon.

Q Could the lead come in contact with his underwear?

A Yes, sir, it could.

BY MR. OSBORNE:

Q Captain, will you tell the jury how much of the instrument was covered with bicycle tape? A This part here, up to here where it has been cut (indicating).

Q Put your finger right at it, take it by one hand and show me?

A The lower part of this instrument here had been wound round with bicycle tape.

Q About how far down did it go? A All the way.

Q Down to where? A Down to here.

Q You mean just where the pipe is doubled? A Yes, sir.

Q Then it would be from here? A Yes, sir, as I say.

Q And from there towards the end? A Yes, sir.

Q That part was covered with bicycle tape? A Yes, sir.

BY THE SIXTH JUROR:

Q So that practically covered all the lead? A It covered all the lead-- it covered all that smelting there.

BY MR. OSBORNE:

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Q Well, go on, Captain. A When I called his attention to the mark on his drawers-- and it is a question in my mind if he could see the mark, as the cell and corridor were dimly lighted-- he replied to me that if there was any mark on his drawers, it must have been made by his key chain, which he had on at the time of his arrest.

Q Well, Captain, you noticed the mark on those drawers; were they more pronounced in 1898 than they are now?

MR. MOORE: Objected to as calling for a conclusion.

Objection sustained.

Q Describe, if you can, the mark when you saw it?

MR. MOORE: Objected to upon the ground that the drawers are the best evidence.

THE COURT: Objection sustained.

Q Well, proceed with your conversation which you had with this defendant. A That was all at that time.

Q Go right on. When was the next time you saw this defendant? A The following morning.

Q What day of the month was that? A That would be the 17th, I think, wouldn't it?

Q Yes, the 17th? A Yes, sir.

Q What time of day did you see him? A About half-past ten in the morning, I think in the neighborhood of that time.

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Q Now, did you have a conversation with the defendant?

A Yes, sir.

Q Now, state the whole of that conversation. By the way, who was it you saw him? A I saw him in my office in the Detective Bureau, 300 Mulberry Street.

Q About what time of day was it? A About 10.30 the following morning. He had been arraigned at court and remanded back to Police Headquarters.

Q Was that conversation taken down too? A Yes, sir, taken down by Mr. Hughes, the stenographer.

Q Go on and state your memory of it. A He said that he recollected now that he did not take the 12.25 boat down to Staten Island that night, for the reason that he landed at Clifton, and the 12.25 boat only went as far as St. George; that he did not ride on the trolley car to his home in New Dorp, consequently.

He said that he had left his office that night around 6 o'clock, that he went out and had a drink, that he bought some cigars, and that he went---

Q What night was this that he left his office about 6 o'clock?

A That would be the night of the 15th.

Q The evening of the 15th? A Yes, sir.

Q He left his office about 6 o'clock? A About 6 o'clock.

Q And went and had a drink? A Yes, sir.

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Q Go on then. A That he had bought some cigars, and that he went into a gent's furnishing store on 6th Avenue and bought a suit of underclothes; that he returned to his office and put this new suit of underclothes on; that he left there and that he went to some theatre, it might have been Proctor's-- there was a bit of a doubt in his mind at the time, he wasn't sure, but thought it was Proctor's; that he fell asleep; that he remained in there until he was awakened by the slamming of the seats at the close of the performance; that he left there and took a Broadway car to the Staten Island ferry; that he slept all the way down in the car; that he arrived at the ferry; that he slept in the waiting-room while waiting for the boat; that when he got on the boat he slept on the boat all the way down; that when he landed at Clifton, he looked around for a car, he thought, and then started to walk home; that he walked and walked and walked, until he arrived at his house.

I asked him the condition of the night or if it was night, and he said, "Yes, it was dark" when he got on the boat; that it was daylight when he arrived home in the morning; that he immediately went to bed and slept very soundly, and when he was awakened in the morning, he knew that he must have walked quite some, from the condition of his clothes, which were dusty, especially his trousers.

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Q Go on. Is there anything else? A I asked him if he was in the habit of taking any drugs, and he said sometimes he took chloral in its crystallized form, but that day-- he was then talking of the 15th-- he had spilled a bottle of chloral over his clothes and may have inhaled the fumes of it. That is about all the conversation I can recollect.

Q On that day did you ask him whether or not on that day he had been at the Grand Hotel? A Yes, sir.

Q What did he say about that? A He said not---

Q On the 15th did you ask him whether he had been in the Grand Hotel on the night of the 15th? A Yes, sir.

Q What did he say about that? A He said not that he recollected. I showed him the bludgeon and asked him if he ever had that in his possession before, and he said no.

Q What was his exact language, Captain, as to whether he had been in the Grand Hotel and about that leaden instrument when you showed it to him? A About the lead instrument he said-- I showed him the instrument and asked him if he had that in his possession before he saw it in my office, and he said, "No; not that I recollect."

Q And what was it he said, or what was his exact language with regard to the Grand Hotel, if you remember his exact language? A No, sir, I cannot recollect.

Q What is your best recollection of it now? A That he had

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denied being there, now; but what his exact words were I have forgotten.

Q You said now that he said if he had been there, he didn't recollect? A Yes, sir.

Q Was that the substance of his answer? A Yes, sir; the substance of it, yes, sir.

Q Now, go on. When was the time that Vallely came in, was it at that time? A Yes, sir.

Q Or was it after this? A That was just as he was through making this statement.

Q Then Vallely came in? A Yes, sir, Vallely came in the room.

Q Then there was a conversation between you and he and Vallely? A Yes, sir; Vallely said something to me.

Q In his presence? A Yes, sir.

Q State what it was. A Vallely said to me, "Captain, he said to me that if he had that lead pipe, that he hasn't any recollection of it now; and that if he was in the Grand Hotel---"

BY MR. MOORE:

Q Was this in the presence of the defendant? A Yes, sir.

BY MR. OSBORNE:

Q Go right on. A Vallely came in the room and said, "Captain, Kennedy said that if he had that lead pipe on him,

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that he has no recollection of it", and I picked up the pipe and said to Kennedy, "Kennedy, did you ever have this pipe in your possession?" and he said, "If I did, I don't recollect."

Q Was there anything else said about the Grand Hotel?

A Well, I can't recollect that, Mr. Osborne, if there was.

Q Was it on Tuesday he told you he made a mistake in saying he had gone to St. George, and that he had gone down via Clifton?

A That was the morning following the night of his first statement to me.

Q That was the morning of the 17th? A Yes, sir.

Q That is all you know about the case? A Yes, sir.

#### CROSS EXAMINATION

BY MR. MOORE:

Q Didn't he tell you that when he got home on that morning of the 16th, it was just breaking day? A Yes, sir.

Q When he told you about the Grand Hotel incident, didn't he say he was bewildered about it, that he had been interrogated so much that he was bewildered about the whole transaction?

A No, sir; he said---

Q He didn't say he was bewildered? A No, sir.

Q Didn't he tell you upon that occasion that he had the neuralgia and that he had taken chloral for the neuralgia, as well as spilling some upon his clothing? A Well, I can't answer you; I don't recollect if he did. I think he said

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he suffered from neuralgia.

Q And as a result of that he took chloral that day?

A I think not, no, sir; I am not very sure. I know there was something said about neuralgia, whether he took it for that, I don't know.

Q Do you know what the occasion of his saying he had neuralgia was, was it in answer to your question if he had taken any drug that day that he told you he had neuralgia and that he had taken chloral for the neuralgia? A No, sir.

Q And spilled some of the chloral? A No, sir.

Q Are you sure of that now? A I am very sure of it, yes, sir.

Q Well, are you sure as to whether he told you he had taken the chloral or not that day? A Yes, sir; I know that he said that he had spilled some chloral that day, and that he had possibly inhaled the fumes, but at other times he had taken chloral in its crystallized form.

Q Do you know whether he said he had taken chloral that day?

A I don't think he had taken chloral that day; I don't think he said he had taken chloral that day; I don't think he told me he had taken chloral that day.

MR. MOORE: I didn't ask that and I move to strike it out.

THE COURT: Motion granted.

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Q I ask you if you know whether in that conversation he told you he had taken chloral that day? A I don't think he did.

Q Now, I don't want that either; do you know or don't you?

MR. OSBORNE: You want his best recollection.

Q I want to know whether he knows? A I don't know.

Q Now, Captain, did he tell you the store where he had purchased the underclothes? A Yes, sir.

Q Did you make any inquiry or learn if that was so or not?

A Yes, sir, I got a duplicate suit there.

Q Where is the duplicate suit? A It was there two years ago.

BY MR. OSBORNE:

Q It was Wolf's on 6th Avenue? A Someone else will tell you that; I don't know that.

CHARLES M. MCKELVY, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q Mr. McKelvy, you are a druggist, are you not? A I am.

Q You have been a druggist for about forty years, thirty years or twenty-five years? A It is about thirty, I think.

Q Were you a druggist at New Dorp, Staten Island? A Yes, sir.

Q How long were you at New Dorp, Staten Island? A About

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eight years.

Q Eight years? A Yes, sir.

Q Did you know Dr. Samuel J. Kennedy there? A I did.

Q At New Dorp, Staten Island? A Yes, sir.

Q How many years did you know him altogether? At that time about eight years.

Q How many years were you putting up his prescriptions?

A I should say about eight years.

Q About eight years? A Yes, sir.

Q Did you become familiar with his handwriting putting up the prescriptions? A I did.

Q Just pick out his prescriptions from your book.

A Yes, sir.

Q Is it a habit of druggists to paste prescriptions in their books and keep them as a record for all time?

Objected to as immaterial; objection sustained.

Q Is it a custom in the drug business to keep these prescriptions?

Objected to; objection sustained.

Q Did you keep them? A I did.

(Witness produces a prescription.)

Q Is that in the defendant's handwriting? A It is.

(The prescription referred to is marked for identification People's Exhibit B, May 16, 1901.)

Q Exhibit B? A Yes, sir.

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