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COURT OF GENERAL SESSIONS OF THE PEACE,

City and County of New York, Part V. "

2621

THE PEOPLE OF THE STATE OF NEW YORK, :

-against- :

M I C H A E L S A V A S. :

Before;

HON. THOMAS C.T. CRAIN, J.,

And a Jury.

New York, January 10th, 1916.

The defendant is indicted for murder in the first degree.

Indictment filed October 28th, 1913.

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

For the People: GEORGE N. BROTHERS, Esq., Assistant
District Attorney.

For Defendant: JOHN J. CLARK and JOSEPH D. KELLY, ESQRS.

A special Panel of Jurors, having first been examined
on the voir dire, were duly sworn.

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Mr. Brothers opens to the jury as follows:

May it please your Honor, and Gentlemen of the Jury, the law imposes upon me the obligation of stating at this time what the People are expecting to prove in support of the indictment which accuses the defendant. That I shall do briefly.

The defendant was indicted on the 28th day of October 1915, the grand jury accusing him of murder in the first degree. As you well know, murder in the first degree is the killing by one of another human being without any justification in law or excuse, as a result of a premeditated and deliberate design to take that persons life.

The defendant was in this restaurant on September 20th, 1915. He had been in there some little time. The restaurant was in the basement of 645 Sixth avenue, which is on the west side of the avenue between 37th and 38th streets, in this county. That restaurant was run by a couple of Greeks, and they served food and drink there and provided music, instrumental music and permitted the patrons to dance. We went down several steps, I believe, from the sidewalk to get into this basement. We shall produce here the diagram of the premises, so that you can understand just exactly how the place was arranged. There were a number of tables and chairs in the restaurant, so that the patrons could sit down.

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Back of the restaurant was a kitchen, and the food and other refreshments were passed through a window from the kitchen out on to a shelf, so that the waiters could take the different orders to the customers. This defendant was in there; the place was fairly well filled with other people, mostly Greeks, and the deceased, and the deceased, a Greek, whose name, as well as I can pronounce it, was Nicholas Lialakus, sat at one of the tables, I think in the centre of the room, and he was well known to the proprietor of the place. He had a friend with him, and as they sat there at the table, the deceased got a little noisy about something, and began making a disturbance. Of course, as you understand, in a restaurant of that sort, people are generally engaged in minding their own business, and if there is any dancing or music they are paying attention to that, and it may be difficult to get every witness in the case to give all the details of what occurred, leading up to the time of the stabbing; but the consensus of evidence, as I think we will be able to show will be that Lialakus got noisy, and he was asked by the proprietor not to make so much noise. He even knocked some of the dishes off.

It may be that he was intoxicated, for all I know. At any rate the proprietor told him he had better not make so much noise and wished he would be quieter, and when he

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broke something, was asked not to do anything like that again, or he might have to go out.

And then he complained to the proprietor that somebody had stolen his money. One of the witnesses I think will relate that he threw some money to the performers, too. Then he took a glass of beer, and he threw it up in the air and it came down and splattered all over the place. Some of the witnesses say that a bottle of something was thrown by this man in the direction of the defendant, who at that time had been dancing for some little time with a lady who was known as Olympia. She was a Greek and was hired in the place, and worked there. She was an entertainer, she sang, and if any of the patrons felt inclined to dance, and there was no one else to dance with, she would dance with him. I do not think we make any point of that, although Mr. Clark has mentioned it to the jury, because I understand in all these dancing places, even in the big hotels, you can secure partners, professional dancers.

At any rate a fight ensued. When Lialakus got to the height of his noise, he got up from his table. This defendant was seen by three or four or more witnesses to leave his partner, near where the musicians were, and he opened his shirt. He had no coat or vest on. It was a hot September night, and he had on a shirt of characteristic appearance. It was striped and easily identified, and

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people had observed the gaudy shirt he had on, and he opened the front of it, as he made his way down through between the tables, and as he got near Lialakus he reached down inside and drew forth a great, long knife, which we have, seven or eight inches the blade was, in his upraised hand, and made a slash at Lialakus, who dodged him. He drew back and made another plunge at him and drove the knife away into the man's breast, which went away down through his stomach and through some of the other organs in there, as the doctor will describe.

Lialakus sank then to the floor. The defendant retraced a couple of steps, took his hat and coat from a hook and started out.

We have a young lady who worked in the place who tells, and I understand she will repeat it to you that she made in her fright for the door to get out. There is a door at the foot of the place opening into the restaurant. When the defendant, the man she had seen downstairs in this shirt, came to the door with a knife and tried to get out, she was in his way and she got cut on the arm, but then the man himself was to the street, and some men pursued him.

Across the street on post was Officer Fetzner, in uniform. He stood there and as he looked across the street he saw a man come out of that restaurant, put his coat on,

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and pulling it on (indicating) I suppose as men ordinarily do. He looked at him and saw some others come up following this man and observed the man did not look around and he saw that every time the man in advance, putting on the coat, stopped, the other men stopped; then they would go ahead. There was something about the manner in which these men acted that aroused Tetzner's suspicions. He is a man of mature years and considerable police experience, so he ran across the street in pursuit.

These people were going south. As he crossed the street, the defendant by that time had gotten down near the corner of 37th street. He turned west towards Fifth avenue (Seventh avenue?), on the north side of 37th street. On that corner is a trunk store.

He kept going and the officer did, and as he got near to the corner he saw the same man that had just gone around the corner, running rapidly to the east, going across Sixth avenue, diagonally, down through the centre of 37th street in the direction of Fifth avenue. By that time he was in full flight, and the officer overhauled him between sixth and Fifth avenue and brought him back.

People stopped to speak to Tetzner, as he was running, but he will not be able to tell you what they said under the rules of evidence.

When the officer got back and took the fellow to the

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restaurant, he went down in there, and as he went into the door, over to one side lay this Lialakus, and I think he was dead by that time. The defendant, of course denied that he had been there or knew anything about it, but people who were in there, and we will produce a number of them, say he is the man who actually plunged the knife into the body of the deceased. Then the officers gathered there in numbers, and some of our best detectives came there and they began a search for the weapon that could have been used.

They searched, and they went down the sidewalk and turned west and finally, just around the corner, where the defendant had first disappeared, and then had retraced his steps and gone back towards Fifth avenue, they peered down through the grating. As you know all basement windows of buildings are so arranged that there is a space out in the sidewalk to let the light in and that is covered with a grating, set in securely so that you and I may walk on it.

They got a light and looked down there and saw something which looked like a knife, so Mr. Murphy, from our office, and some of the officers, got into the building and went down and went into the area-way, and there they produced the knife, found it underneath the windows.

The defendant, we charge, threw it through the grating. They took it back, and witnesses who saw the knife in defendant's hands will tell us that this is the same knife. The character of it is easily distinguished, and the wound itself was of such a character that it could only have been

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made by a knife of this size and shape.

Now, that is briefly what the People expect to prove. I could go further and narrate in greater detail what each witness is going to say, but I do not think it would aid you in the slightest degree. When you come to listen to the evidence, and I do want to refer to this, -- that there are a number of these witnesses, most of them are of foreign birth, some have learned our language, but it will require you to listen with some degree of patience to what they will have to say, on our side, as well as the defendant's. I have found, if the jury listen carefully when the witness is on the stand to what is being said, that when you go into the jury room you have it pretty well in mind. I find it difficult myself to pay strict attention, but sometimes it is very important. A Witness will say something that you do not perhaps hear, but if you will only ask us we will have it read out so that you will get it.

Now, I want to call your attention to the charge of murder in the first degree, which, of course, embraces the lesser charges of murder in the second degree and manslaughter in the first and second degrees. I say that at this time so that as you listen to the evidence you can see whether any of the proof which is coming out, tends to support the claim of the defendant's being guilty of any of those degrees.

Now, murder in the first degree, as I have told you,

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and as you all know, is the killing of a human being without any excuse or justification. It must be done as a result of some premeditation or deliberate design to kill; -- that is, the mind must have acted on the proposition; that the individual doing the act determined then and there to take the life of another person and deliberated on it, made the choice, or had the time to reflect, to say whether or not he will do it. If they do that, that is murder in the first degree. But if there is the intent to kill another person acted upon, and death ensues, but it is an impulsive act, and there is no time from the time the man makes up his mind to kill until he does the act, nor time for him to reflect or for him to make a choice, to say, "I better not do it.", or, "Yes, I will.", that will be murder in the second degree. If there is no intent at all to kill, it will be manslaughter. So you must be guided by those rules as you listen to the evidence.

If you find that there is evidence here that this man intended to kill this person and that as he went toward him he was drawing out this dangerous weapon, some of you may think that is murder in the first degree. That is what we are going to claim, and that is why I speak of those matters at this time.

If your Honor will permit us to begin our evidence in the morning, I should greatly appreciate it, because I

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am tired.

MR. CLARK: May I say a word? I was not quite clear, I wanted to except to one statement, -- the alleged congregation of the detectives there. It seems to me it is a little bit improper to classify these detectives as "some of our best detectives".

MR. BROTHERS: Well, perhaps it was.

THE COURT: The jury will disregard that.

MR. CLARK: I was not quite clear from what the District Attorney said, whether he was withdrawing the charge of murder in the first degree, because, so far as I heard in his outline of what he was going to prove, I heard nothing which would tend to show anything in the way of premeditation or deliberation, and I think he said at the last that the People were going to claim that that is what was done. I was of the opinion he was withdrawing that. I should be inclined to move to take that question away from the jury on the opening of the People.

THE COURT: Motion denied.

MR. CLARK: Defendant specifically excepts.

THE COURT: Gentlemen of the Jury, you are admonished not to converse among yourselves on any subject connected with this trial, or form or express any opinion thereon until the same is submitted to you.

I may say to you by way of abundant caution that

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you are not to visit the premises referred to; that is to say, that Greek restaurant. Sometimes when premises are mentioned in a murder case and jurors are not instructed that they are not allowed to go to those premises, they conceive that it may be useful to go and look at the premises, so that you are pointedly told that you are not to go there.

You are excused until tomorrow morning at half past 10 o'clock.

(Trial adjourned till Tuesday, January 11th, 1916,
at 10:30 a. m.)

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THE PEOPLE vs. MICHAEL SAVAS.

New York, January 11th, 1916.

TRIAL CONTINUED.

MR. BROTHERS: Will your Honor direct that all the witnesses in this case remain outside?

THE COURT: Yes, the witnesses in this case, on both sides, will please step outside and remain outside until called.

MR. CLARK: If it please the Court, with regard to those witnesses who do not understand English may I ask that they will be directed, when they take the stand that they speak so that they can be heard back here, and so that we can at once get the gist of what they say? Frequently as your Honor knows they talk merely to the Interpreter and we do not hear them here.

THE COURT: Undoubtedly; if you or the Interpreter do not hear them bring it to my attention, will your please?

MR. CLARK: Yes, sir.

FREDERICK H. TETZNER, (23rd Precinct) sworn on behalf of the People, testified as follows:

MR. BROTHERS: First, I would like to have marked in evidence, upon consent, a street diagram, showing Sixth avenue, its intersection with 38th street, and also its

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intersection with 37th street, and 37th street as far east and beyond Fifth avenue and beyond Sixth avenue, drawn to a scale of 2-1/2 inches to 100 feet.

THE COURT: No objection, I take it, Mr. Clark?

MR. CLARK: No, sir.

THE COURT: Received.

(Diagram received and marked People's Exhibit No . 1.)

DIRECT EXAMINATION BY MR. BROTHERS:

Q Your name is what? A Frederick H. Tetzner.

Q You are a member of the Police Force of the City of New York? A Yes.

BY MR. CLARK:

Q How do you spell your name, Officer? A Tetzner, T-e-t-z-n-e-r.

BY MR. BROTHERS:

Q You have been a member of the Police Force how long? A Nineteen years.

Q You are in what precinct? A 23rd.

Q Is that the precinct you were serving in on the date of this alleged homicide? A Yes, sir.

Q The 20th of September, 1915? A Yes, sir.

Q On the night of September 20th what time did you go on duty? A 4 p. m.

Q And in the neighborhood of half past nine or ten o'clock that evening where were you? A In the neighborhood of 38th

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street and Sixth avenue.

Q Your post was what? A On Sixth avenue from 36th to 42nd street, both sides of the street.

Q Just upon the avenues? A Yes.

Q You did not have to go up any of the side streets? A No.

Q Which side of the avenue did you say? A Both sides of the avenue.

Q Do you know where the premises 645 Sixth avenue are? A Yes.

Q On which side of the avenue? A West side.

Q Near what street? A About half way between 37th and 38th streets, about in the centre of the block.

Q Was your attention attracted to that place that evening, September 20th? A Yes.

Q Officer, as near as you can recall, about what time was it? A About ten o'clock.

Q At that time where were you? A Almost opposite 645; about 638 or 640, on the other side of the street.

Q So that you were on the east side of Sixth avenue? A Yes on the east side of the avenue.

Q Between 37th and 38th streets? A Yes.

Q What is the building 645 occupied as, or what was in that building at that time? A Two stores, and basement, and the upper floors used as a dwelling house.

Q What was in the basement? A In the basement was a Greek restaurant.

Q Were you familiar with that place? A Yes.

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Q Had it been in operation long? About how long? A Well, under a different ownership, ever since I had been on post there, about a year.

Q And when you say the basement, do I understand that it is below the level of the sidewalk? A Yes.

Q So that you have to go down some steps to gain entrance? A Yes, sir.

Q What called your attention to that place about that time, about ten o'clock? A I saw four or five men come up the steps, out of the basement, and the man in the lead seemed to be in the act of putting on his coat. It was thrown over his shoulders, and he had drawn it up over his shoulders and he started south on Sixth avenue with the men behind him following him.

Q About how far behind the men in the lead were they? A Just a few feet; coming up the steps they were very close behind him.

Q You say the whole group of four or five men were? A Yes. The man in the lead started south. About going about ten or fifteen feet, he turned around, and those who were following him, - he faced them, and they hesitated and stopped.

Q Did the man in the lead stop when he turned around? A He did, for an instant, and then he turned around and started to run down sixth avenue.

Q On which side of the avenue? A On the west side of Sixth avenue. At that time I started to cross the street to see what

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the trouble was. Before I got to the other side of the street, the man in the lead had turned west on 37th street. He had reached 37th street and turned west.

Q That would take him towards seventh avenue? A Towards Broadway, yes.

Q And you observed him when he turned the corner? A Yes.

Q As he turned the corner can you say whether he remained upon the sidewalk? A He was upon the sidewalk.

Q So that he turned west upon the north side of 37th street? A Upon the north side of 37th street.

Q Where were you at that time? A Crossing the street.

Q Crossing Sixth avenue? A Crossing Sixth avenue.

Q With respect to the distance that you were from the corner of 37th street, how far away from 37th street were you? A About 75 feet.

Q So that as you crossed the avenue you went somewhat southwesterly, did you? A Yes.

Q When the man who was in the lead turned toward the west around 37th street, what were those other men who were behind him doing? A They followed him down to the corner and they hesitated, they stopped for an instant.

Q Stopped at the corner? A They turned around and saw me. They let out a yell, they shouted "Catch him! Catch him!"

MR. KELLY: I move to strike out what they shouted your Honor, as not binding upon this defendant.

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THE COURT: I think I will let it stay in as part of the res gestae.

MR. KELLY: Exception.

Q At the time they called out, as you describe, were you then walking or running? A Running.

Q What next did you see? A When I got to the sidewalk I saw the same man come back east on 37th street, out into the street, from the sidewalk and run east on 37th street.

Q Now, when you say that you reached the sidewalk, what sidewalk do you mean? A On the northwest corner of 37th street and Sixth avenue.

Q Is that the sidewalk of Sixth avenue that you mean? A Yes.

Q Now, you say that the same man came back out of 37th street, going easterly, is that right? A Yes, sir.

Q He went towards Fifth avenue? A Towards Fifth avenue.

Q And you pursued him? A I did.

Q When he left the westerly side of Sixth avenue and 37th street, what course did he take; that is, did he remain upon any sidewalks, or did he go out in the roadway? A As far as I could see, he stayed on the sidewalk.

Q Which sidewalk of 37th street was that? A The north side of 37th street.

Q Tell us what you did? A When I got to the corner, I saw the same man run back from the sidewalk to the street, - rather he came from the sidewalk running out into the street.

BY THE COURT:

Q Out into 37th street, you mean, is that so? A Yes, on

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37th street. Then he continued east on 37th street, near the centre of the street for about 100 feet.

BY MR. BROTHERS:

Q How was he traveling then, on a walk or run? A Running.

Q What were you doing? A Following him.

Q Running too? A Yes. After he got up 37th street a little way, he went over on the sidewalk and ran up on the south side of 37th street towards Fifth avenue. I kept in the centre of the street until I got about half way up the block and I took the sidewalk and got up to him when he got near Fifth avenue, and caught him.

Q How far from Fifth avenue were you when you got up to him?

A About 100 feet.

Q And then when you overtook him he was on the south sidewalk?

A He was on the south side of 37th street.

Q Did you call to him first as you got near him, or did you grab hold of him? A I just ran up and grabbed hold of him.

Q What did he do then? A He stopped.

Q Who was the man? A A man known to me as Michael Savas.

Q Do you see him here today? A Yes.

Q Where is he? A The defendant. (Indicating the defendant.)

Q Sitting at the table? A Yes.

Q What did the defendant do at the time you say he stopped; did he do anything or say anything? A No; the first thing I done was to press him for a weapon.

Q That is, you searched him? A Yes.

Q Did you find any weapon? A I did not.

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Q I would like to show you, before I go any further, People's Exhibit 1 in evidence, this diagram; -- this is Sixth avenue (indicating), this is 37th street (indicating) and that 38th street (indicating) and here is Fifth avenue (indicating). You understand that, do you? A Yes.

Q You have never seen it before? A No.

Q But you have seen other diagrams, haven't you? A Oh, yes.

Q The pink part are the buildings? A Yes.

Q The gray is the sidewalk. A Yes.

Q And the white is the roadways. A Yes.

Q These are car tracks here (indicating). A Yes.

Q 645, you say, is about the centre of the block, that is, where this restaurant was? A Yes, right here (indicating), underneath the barbershop.

Q And the defendant, you say, ran down the west side and around this corner? A Yes, right around the corner (indicating northwest corner of 37th street and Sixth avenue).

Q Then he came back? A Came back this way. (Indicating southeasterly direction.) This way, up the street, that way (indicating across Sixth avenue and east on 37th street).

Q How far up this block did he travel? Here is Fifth avenue away down here. He got on the sidewalk where? A About here. (Indicating in front of No. 62.)

Q How far down the block was he when you stopped him? A In front of No. 4. (Indicating.)

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Q Now, about how long a time was the defendant around the northwest corner of 37th street and Sixth avenue, before he came back into your sight again? A Probably five seconds.

Q When he came back into your sight, did he have his coat on?
A He did.

Q As you ran down toward Fifth avenue in pursuit of the defendant, you need not state what anybody said to you, but did anybody upon the street say anything to you? A Yes.

Q When you overtook the defendant and returned to Sixth avenue with him, did other people make statements to you as you were going along? A Yes.

Q To what place did you take him? A To 645 Sixth avenue.

Q And into what part of the building? A The basement.

Q That brought you into this Greek coffee restaurant? A Yes.

Q Is that the only concern that occupied the basement? A Yes.

Q Did you say anything to the defendant from the time you took him into custody until you arrived at the restaurant? A Yes.

Q What did you say to him?

MR. CLARK: I object, your Honor, on the ground the defendant does not understand the English language.

MR. BROTHERS: He understands some English, but I will make this inquiry.

Q Did he make any reply to what you said to him in English?

A To one question.

Q To that he replied in English? A Yes.

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MR. BROTHERS: I think we may have that question.

THE COURT: I will limit it to that.

MR. CLARK: We respectfully object and take an exception.

Q What was the question you asked him to which he replied, -- to that only? A I said, "What did you cut that fellow for?"; he said, "I don't know.". "I don't know anything about it."

Q Just where were you at the time? A Coming west on the south side of 37th street.

Q When you got into the Greek restaurant at 645 Sixth avenue; -- by the way, that is in the City and County of New York, is it not? A Yes.

Q What did you see when you got in there? A I saw a number of people in the place, and on the north side of the restaurant I saw a man lying on the floor. Two men were holding his head up and bathing his face, and I examined the man and saw that he was dead.

Q Now, when you examined him what did you find about him? A I found that he was cut on the left side of the breast. His shirt was open. His shirt was all tore open and I found a cut on the left side of the breast (indicating).

Q Will you describe the cut? A The cut ran across that way (indicating horizontal direction about eight inches under left armpit).

Q Was it bleeding? A Very little.

Q He apparently, as far as you could see, was dead? A Yes.

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Q Did you know him at that time? A I had seen him before.

Q Where? A He used to keep a poole room a few doors below that place, 639 or 641; I think he had a poole room one time.

Q Did you know his name? A I did not.

Q You learned it then, did you? A Yes.

Q That it was Nicholas Lialakus? A Nicholas Lialakus.

Q Did you do anything for the injured man? A I did not.

Q There were others there attending to him? A Yes.

Q Did any ambulance doctor come? A Yes.

Q When the ambulance doctor got there, was the defendant there in the restaurant? A Yes.

Q Near the body? A A little away from it.

Q The whole room, -- that is rather a small room, isn't it, it is not a big place?

MR. CLARK: I object to the characterization. There will be a diagram in evidence showing the size of the room.

THE COURT: Objection sustained.

A (Continuing.) He was about fifteen feet from him.

Q What did the ambulance doctor do? A He pronounced the man dead.

Q Did you see the deceased, the body of Nicholas Lialakus again after that that night? A The following morning.

Q At what place? A At Bellevue Hospital in the morgue.

Q You there identified that body to Dr. Weston, the coronor's physician? A Yes.

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Q That was the body of the same man you had seen in the restaurant the night before? A Yes, sir.

Q And he was dead beyond any doubt when you saw him in the Morgue? A Yes.

Q You did not remain while the doctor performed the autopsy, did you? A No.

Q Is this pr. Weston coming in now (pointing to a man entering the court room)? A Yes, sir.

Q Going back to the restaurant, Officer, when you were in there and had the defendant under arrest, were there a number of people in that restaurant? A There was.

Q Could you tell us what else happened in the restaurant upon your return; what else did you do? A I had notified the station house to call an ambulance. I received word that an ambulance was on the way, and they told me they had notified the Detective Bureau. After I got in the basement I locked the door and allowed nobody out, excepting one man who I knew had nothing to do with it. He was a neighbor.

THE COURT: I will strike that out.

MR. CLARK: I object to that. I do not see how he knew he had nothing to do with it.

THE COURT: I will strike that in regard to what he said, that he knew he was a neighbor and had nothing to do with it, and the jury will disregard that.

Q What else did you do? A I locked the door and allowed no

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one out until the detectives came, Detective Cooney of the Second Branch Detective Bureau was the first one to get hthere. I got the names and addresses of the witnesses, all the witnesses that I could, and then left the prisoner in charge of Detective Cooney and told him I was going out to look for a knife.

Q And you went out on the street? A I did.

THE COURT: I think I will strike out what he told Detective Cooney, and the jury will disregard that.

Q You got out on the street, did you? A Yes.

Q You made a search as you say for a knife? A I did.

Q Where did you look? A Perhaps I better show you the diagram.

Look at Defendant's Exhibit 1 in evidence. Here is the restaurant 645 (indicating). A I looked along the sidewalk and in the street, down Sixth avenue (indicating Sixth avenue to 37th street), around the corner, on the sidewalk, in the street (indicating northwest corner of 37th street and Sixth avenue), came back along the street this way, came all the way up here and back here into 37th street (indicating into 37th street and Sixth avenue), looked into the doors and areaways along the sidewalk on the south side (indicating south side of 37th street), until we got over here, we looked around the corner here, there is a candy stand here (indicating northwest corner of 37th street and Sixth avenue), I got up on the shed and looked on the shed on the roof of that.

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Q Where is that shown here ? A That is about 24 feet off the corner, 24 feet from the building line of Sixth avenue.

BY THE COURT:

Q That is the northwest corner of sixth avenue and 37th street? A Yes.

BY MR. BROTHERS:

Q There is a little candy stand there, you say, that juts out from the wall, on the sidewalk? A Yes.

Q You looked about there, did you? A Yes.

Q What else did you do? A While looking around there I was notified I was wanted at the box.

Q Where is the box? A On this corner, the southeast corner, the signal box. (Indicating) While here somebody said ---

MR. CLARK: I object to that.

THE COURT: I will not allow anything that was said, not a word about that.

Q Not what anybody said, but what you did with your own hands and eyes. You went up here (indicating)? A Yes, to answer the box. When I got over here I went back over there again (indicating northwest corner). I took a lantern away from a young man. I took it over here in the corner and held it so that I could look down under the railing into the area-way (indicating northwest corner).

Q You have indicated the northwest corner of 37th street and Sixth avenue again? A Yes. It is further from the corner; it is about 22 or 24 feet from the corner.

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Q Near the candy stand? A Right near the candy stand.

Q What did you do? A I held the light so that I could not look down under the railing and I saw the knife.

Q And this railing you have described, what was that? A A railing over an area-way; it was about two and a half or three feet from the building.

Q Was that an area-way with a stairway in it? A No.

Q What was it used for? A I don't know. There was a window in the building underneath.

BY THE COURT:

Q Pardon me; what do you mean, Officer, by a railing?

A A railing over an area-way, a grating.

Q What you mean is a grating? A Yes.

BY MR. BROTHERS:

Q It was flat; you could walk on it? A Yes.

Q You don't mean a fence? A No.

Q You took the light and looked through? A Yes.

Q And you saw a knife? A Yes.

Q Where was the knife? A Lying in the areaway.

Q At the bottom? A Just down from the stand.

Q Was it at the bottom, yes.

Q Could you reach it? A No.

Q Could you lift up this grating? A No.

Q Then what did you do? A I called Patrolman Sheehan.

BY THE COURT: Q You said something to him, and after you had

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spoken to him, what did you do? A I went back into the basement and notified the Assistant District Attorney who had arrived in the meantime, that we had found the knife.

BY MR. BROTHERS:

Q Who was that, Mr. Murphy? A Mr. Murphy.

Q Did you do anything more about the knife yourself? A I didn't.

Q After you spoke to Mr. Murphy, where did you go? A I went back to the signal box.

Q Before leaving the grating, did any other officer come there to the grating? A He did.

Q Who? A Officer Sheehan.

Q When you went away from the grating what did Sheehan do?
A I told him to stay --

THE COURT: No, strike that out.

Q He remained there? A Yes, he remained there.

BY THE COURT:

Q I understand, Officer, that when you left -- I may not be right about this, but when you left that grating, you left the knife down on the floor? A Yes.

Q In other words, you did not touch the knife? A No.

BY MR. BROTHERS:

Q And you went away leaving Sheehan there at the grating?
A yes.

Q About how far down below the grating, in feet, was the knife? A About eightfeet.

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Q Can you describe the knife that you saw under the grating?

A I only know it was a long knife.

Q A long one? A Yes, a very bright blade.

BY THE COURT:

Q Straight or crooked blade? I mean a curved blade, or are you unable to describe it further? A I could not see.

BY MR. BROTHERS:

Q About how long was it? A I have not thought; it was almost a foot long.

BY THE COURT:

Q You mean including the handle? A Including the handle.

BY MR. BROTHERS:

Q After you spoke to Mr. Murphy in that basement, - and by the way, what basement was that? A 645 Sixth avenue.

Q At the restaurant? A Yes, sir.

Q Where did you go? A I went to the station house.

Q Did you see any knife which anybody produced in the restaurant? A No.

Q After going to the station house did you return at any time that night to the restaurant? A No.

Q Did that complete your part in the investigation of the case that night? A Yes.

Q Well, have you seen the knife since that night, that is to say, has it been shown to you in connection with this case?

MR. CLARK: The officer having revealed his absolute

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ignorance of what the knife looked like, I respectfully state that he is not able to say that he ever saw that knife again. He stated he did not see whether it was curved or straight.

MR. BROTHERS: well, we will not press it.

Q Did you notice the shirt that was worn by the defendant ?

A I did.

Q What kind of a shirt was it? A A highly colored shirt; heavy stripes in it, red and black. It seemed to me some red stripes and black stripes, very noticeable.

Q Conspicuous? A Yes.

Q Had he a vest on, do you recall? A No.

Q Or just a jacket? A A jacket.

Q Did you observe this shirt when he came out of the restaurant, before you took up the pursuit, or was your attention called to it after you had arrested him? A I saw the shirt when he came up the stairs.

Q Was he putting his coat on at that time? A Yes.

MR. BROTHERS: I think that is all.

CROSS EXAMINATION BY MR. KELLY:

Q Officer, this was a warm September night, wasn't it?

A Yes.

Q And when you saw this man came up out of this basement there was nothing to particularly attract your attention to him, was there, except the fact he was putting on his coat? A Yes.

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Q What was that? A They seemed to be excited.

Q He seemed to be excited? A Yes, the party seemed to be excited.

Q What time did this happen? A About ten o'clock.

Q There is an elevated structure on Sixth avenue, isn't there?
A Yes.

Q And there are favorite cars going up and down all the time?
A Yes.

Q This happened at 645 sixth avenue, which is in the centre of the block, is that right? A Yes.

Q And you were down near 37th street, weren't you? At 638?
A No, I was at 638 or 640 -- 640.

Q Which is it? A 640, the Oyster & Chop House; I was standing in front of that.

Q Didn't you say on direct examination that you were standing in front of 638? A It might have been 638; as I recollect now, the number is 640.

Q 640, that is opposite 639, isn't it? A No, - yes, about that.

Q And those are nineteen foot front houses there, aren't they?

MR. KELLY: Will you concede that, Mr. Brothers?

MR. BROTHERS: Yes.

Q So he came up out of the basement 60 feet north of you and on the other side of Sixth avenue, is that right? A It is not

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sixty feet; I don't think it is 60 feet north of where I was.

Q Perhaps you were up further in the block, were you? A No, it is more opposite. It is not 60 feet. 640 is not 60 feet below 645.

Q What is the first number on the east side, the east side of the street, do you know?

THE COURT: You mean beginning at what street?

MR. KELLY: At 37th street.

A I think it is 634; 634.

Q I will ask you to look at this diagram and see if that will refresh your recollection, referring to People's Exhibit 1, in evidence? A Here is 636 (indicating), Electrician. This is a lunch room here (indicating).

Q And that is where you were standing? A This is the lunch room, and this is the Oyster house at 640.

Q You were standing in front of 640? A Yes, in front of 640.

Q The entrance to that building is on the south end of the building, isn't it? A Which building?

Q To 640? A Yes.

Q That is nearer to 37th street? A Yes.

Q How long have you had that post, Officer? A About a year.

Q So you are more or less familiar with the different houses along that block, aren't you? A Yes.

Q How far do you think you were away from this basement at the time you saw this defendant coming up out of the basement?

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A The street is about 60 feet wide.

Q I did not ask you that? A About eighty feet.

Q About 80 feet? A About 75 feet.

Q On the northwest corner of 37th street and sixth avenue there is a trunk store, isn't there? A Yes, sir.

Q And next to that is a saloon, is that right? A Yes, sir.

Q And next to that is a loan office, is that right? A Yes.

Q Then next to that is a wine and delicatessen store, is that right? A Yes, sir.

Q And next to that is a place where they sell gowns of some kind is that right? A Yes.

Q And next to that was this place where this alleged occurrence took place, is that right? A That is the building. There is a delicatessen store in that building also. One side is delicatessen store and the other store is a barbershop.

Q That is, at the present time? A Yes.

Q You were standing about opposite the loan office, is that right? A Yes, sir.

Q Now, you are sure it was 75 feet that you were away from 645 at the time you first saw this man come up out of there, is that right? A Yes, about 75 feet.

Q No more and no less? A Oh, I won't be positive on that.

Q And you saw this man walking upstairs? A Yes.

Q Out of this basement? A Yes.

Q At this distance across sixth avenue? A Yes.

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Q And you were attracted to him by the fact that he looked nervous or excited at that time, is that so? A What attracted my attention was the people that came up after him.

Q I am not asking you that, officer; I am asking you when you first saw this man, what first attracted your attention to him. You told me at first that this man looked excited when you first saw him come up? A I said the party was excited. There were three or four in the party that came up from there.

Q Did I ask you anything about the party at all, yet?

THE COURT: That is what he said. The party looked excited. He is referring to what he said.

Q This man was some distance ahead of the others that came up? A No, not coming up the stairs.

Q They all came up together? A All in a bunch).

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Q You noticed one man putting on his coat? A Yes.

Q Did you notice anyone else putting on their coats? A No.

Q Every one else had their coats on, is that right? A I will not say that. I don't know; they were all hatless; excepting the defendant, the rest of them were hatless, none of them had hats on.

Q You are sure of that? A Positive.

Q But you remember that this defendant was the one who was putting on his coat, is that right? A It seemed that way to me, he was drawing his coat up over his shoulders (indicating).

Q And then you looked from there pretty carefully, did you?

A No.

Q You took a good look at him at that time, did you? A No.

Q How did you come to notice this shirt on him if you had no particular interest in him, any more than anybody else at the time? A It was a very conspicuous shirt.

Q And you took that all in as he was coming up the steps, is that right? A Yes.

Q Did you see anything in his hand at the time? A I did not.
BY THE COURT:

Q Pardon me a moment, Mr. Kelly. As the defendant was putting on his coat, as you say, coming up the steps, what hand was he using? A Both hands. He had his coat that way (indicating over his shoulder) He pulled it up over his shoulder.

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BY MR. KELLY:

Q When you were this distance away, when you were watching him, were you the length of this court room away from him, or were you more or less than that? A More than that.

Q Were you further away? A Yes.

Q How much more? A I don't know. I don't know what the length of the court room is.

Q Well, tell us how much more you were away, then we will tell you how much further you were away according to the length of the court room? A I figured I was about 75 feet away at that time, from the width of the both sidewalks and the width of the street.

Q What is the length of this court room? A About 60 feet.

Q And you were a longer distance than that away? A Yes.

Q How much more, can you say? A About fifteen feet more.

Q Was there an electric light over near this place at 645 Sixth avenue? A No, not a street light.

Q Where were the electric lights? A On the corners.

Q Which corners, the east sides, or west sides of Sixth avenue? A On the west side there is one on the northeast corner, and one on the southwest corner.

Q The one on the northeast corner, that is over where you were? A Yes.

Q The one over on this corner (indicating on diagram)? A Yes.

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Q Do you know about where they are on 38th street? A The same corners.

Q On this corner of 38th street (indicating)? A Yes.

Q So that the light from here (indicating) would be obstructed by the elevated post, wouldn't it? A Yes.

THE COURT: I merely call your attention to the fact, Mr. Kelly, that for the purpose of the record, when you say "the light from here" the stenographer puts it down, which does not indicate anything.

Q The light from the southeast corner of 38th street, which is the nearest light from the premises at 645 sixth avenue would be obstructed? A There is no light at the southeast corner. It is the northeast corner of 38th street.

Q The light at the northeast corner would be obstructed by the elevated station and pillars? A Evidently.

Q There is a station at 38th street? A Yes.

BY THE COURT:

Q How was the weather that night, Officer? A Clear.

BY MR. KELLY:

Q As soon as this man came upstairs out of the premises at 645 sixth avenue, you say he turned south, then? A Yes.

Q At that time had you started to cross the street? A No.

Q You took no particular notice of the five or six men coming up out of the basement, did you? A Yes.

Q Well, what did you do when you saw them coming up? A I watched them for an instant.

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Q For how long? A Oh, a few seconds.

Q How far had they traveled in this length of time that you watched them? A About ten or fifteen feet.

Q South? A South.

Q And were you in plain view at the time? A Yes.

Q Standing out on the street? A On the sidewalk.

Q And this lunch room was well lighted, was it? A Yes.

Q And the restaurant right next to it, 638, was well lit? A Yes.

Q And you were in full uniform at the time, were you?

A Yes.

Q And the man ran south in the general direction that you were in, did he? A Yes; he did not run. After he got to the sidewalk he did not run, he walked.

Q He walked in your direction? A Yes.

Q Slowly or fast? A Well, fast. He walked south for about fifteen feet, then turned around. Then turned around again and ran south.

Q Did you start in to cross the street at that time, or when did you start? A When he stopped and turned around, I started to cross the street.

Q Did you walk or run? A I ran.

Q He ran south, did he? A Yes.

Q And got across the street, did he, got down to the corner?

A Got down to the corner.

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Q Where were you at the time he reached the corner? A In the street.

Q What part of the street? A Well, more towards the east side of the street.

BY THE COURT:

Q When you say the street what streets do you mean? A The centre of the street.

BY MR. KELLY:

Q The centre of sixth avenue? A On the roadway.
BY THE COURT:

Q What roadway? A Sixth avenue.

BY MR. KELLY:

Q You were more to the east side of sixth avenue? A Yes.

Q When this man reached the corner of 37th street? A Yes.

Q The northwest corner of 37th street and Sixth avenue? A Yes, sir.

Q And this man had traveled half a block or more from 645 to the corner in the length of time that it took you to get from the sidewalk out to a distance near the car tracks, is that right? A Yes.

Q How much do you weigh, Officer? A 200 pounds.

Q How fast can you run? A Oh, I am pretty good yet.

Q This man must have been a wonder, then, to run this distance, from 645 to the corner when you were only as far as the car tracks, or only ran out into the easterly roadway of Sixth avenue? A Well, I was not running very fast in crossing the

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street. My idea was that it was just a slight fight, as usually occurs in those places. I have seen the same thing happen very often.

Q In fact, up to that time, Officer, you had not taken any particular notice of this thing at all, had you, except you saw these men coming upstairs, and you thought you would go over and be on hand as an officer should do, in case anything should happen? A Yes.

Q And that was your only idea at that time, so that in case anything went wrong you would go over there? A Yes.

Q And that was your only idea in starting to cross the street? A Yes.

Q And you didn't go very fast? A No.

Q In fact you only got to the cartracks, did you, by the time this man got to 37th street? A Yes.

Q You just got about to the northbound track from sixth avenue by the time this man reached 37th street and sixth avenue at the northwest corner? A Yes.

Q Did you go any faster then when you got out that far? A No, it only took me a minute -- a second or two to get over to the sidewalk.

Q How long was this man around the corner? A A very short space of time, probably four or five seconds.

Q Did the other men go around the corner after him? A No.

Q The other men all stood there waiting there? A On the

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corner, yes.

Q And then this man, although these men were standing on the corner, this man ran back in their general direction, is that right? A Yes.

Q And in your general direction, too? A Yes.

Q By the time he started back had you reached the corner of 37th street? A Yes, he passed me. I was standing on the corner and he passed me out in the street, on the roadway in 37th street.

Q How far away? A He was about feet from me, or ten feet.

Q That is south of you, in the roadway? A On the roadway and I was on the corner.

Q On 37th street, west of Sixth avenue? A Yes.

Q And you were on the corner? A Yes.

Q Were you walking or running at that time? A I was just standing there and asked what was the matter.

Q And then this man passed by you and continued east on 37th street? A Passed by me on the street and continued east on 37th street.

Q When did you start in to chase him? A From that moment.

Q You started in to run very fast after him, is that right?
A Yes, sir.

Q Did this man see you chasing him? A Yes.

Q And he continued east on 37th street then? A Yes.

Q Where did you run, in the roadway or on the sidewalk?

A On the roadway for part of the way.

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Q When did you go out into the roadway? A From that corner.

Q From that corner you ran diagonally out into the 37th street roadway? A Yes.

BY THE COURT:

Q When you say that corner, you mean the northwest corner of 37th street and Sixth avenue? A Yes.

BY MR. KELLY:

Q You had never seen this man before in your life, this defendant? A No.

Q Will you point out on the map, or on this diagram, People's Exhibit 1 in evidence, where you were when you saw this man turning the corner? A I was about there .

MR. CLARK: Indicating a point approximately 6 feet east of the northbound tracks on Sixth avenue.

(The officer marks with a pencil "T")

BY MR. KELLY:

Q Now, at the time you were at this point, Officer, where was the defendant? A He got to the corner (indicating northwest corner), and west on 37th street.

Q Had he gone west on 37th street or was he just at the corner when you arrived there? A He continued on from the up-town corner. (Indicating a course south on Sixth avenue and turning west on 37th street).

Q You continued over at the same gait that you were traveling?
A Yes.

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Q Across the street? A Yes.

Q When you got to this corner where did you see the defendant? A He came this way, from the north side of 37th street out to the centre of the street (indicating centre of the street, west side of Sixth avenue).

Q Now, where was he when you reached the point over here at the corner? A I did not see him then, he was out of my sight.

Q And this distance, from where you marked "T" to the corner here was the closest point that you were to him up to the time that you saw him out in the centre of the street, about ten feet away from you, is that right? A Yes.

Q And you walked across the street here and then saw him out there and he saw you there? A Yes. (Indicating centre of 37th street, on the west side of Sixth avenue).

Q And you were in plain view at that time, were you? A Yes.

Q And then he continued east across Sixth avenue? A Up this way, (indicating east).

Q Where did you come from that corner? A Out this way (indicating in the centre of roadway), from the corner into the roadway.

Q You continued out to the centre there and then ran east after him? A Yes.

BY THE COURT:

Q Did the defendant have anything on his head as he came up the steps of No. 645? A Yes, he had a hat on.

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BY MR. KELLY:

Q What kind of a hat was it? A A split hat, a soft hat.

Q And you ran as far as No. 4 West 37th street after him, at which point you caught up to the defendant? A Yes.

Q He made no fight of any kind at the time? A No.

Q Now, when you started to run east on 37th street after the defendant, what became of the four or five men that were standing on the corner of 37th street and Sixth avenue? A I don't know.

Q You never saw them again? A No.

Q Could you identify any of those four or five men if you saw them? A No.

Q How is it you can identify one man so well, and you cannot identify any of the others? A Well, I took a good look at him; by the manner he was dressed, and his general appearance.

Q In fact, you did that as soon as you arrested him, and immediately asked him why he cut this man, is that right? A Yes.

Q Weren't you talking to the other men there on the corner?
A No.

Q Didn't you go up to them and ask them what was the matter, or anything? A I asked what was the matter.

Q And you stopped there some distance until you saw this defendant come east again? A Yes, he came east immediately.

Q As soon as you got to the corner? A Yes.

Q You stopped there long enough, and you asked the men what

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was the matter? A Yes.

Q Did you look at any of these people at all? A No.

Q But you were standing right with those people at the time weren't you? A I didn't get a good look at them.

Q There was a light on the corner, wasn't there? A Yes, it was light enough.

Q Wasn't there an electric light on that corner? A On the other corner, on the southwest corner.

Q Did you notice what kind of shirts any of those people had on, the four of them that were standing there? A Neither of them had a hat, and one of them had a white shirt on. One had a coat on. They all had black hair.

Q Only one had a coat on, is that right? A As far as I can recollect, yes.

Q well, while you were standing talking to them there? A Yes.

Q But you would not be able to identify them again? A No, sir.

Q How soon did Mr. Murphy, the Assistant District Attorney arrive there, after you arrested the defendant? A I don't know. It might have been about half an hour.

Q It was the length of time that it took you to walk from sixth avenue to 37th street, and then east on 37th street as far as No. 4, and west again, is that right? A Yes.

Q And when you returned over to 37th street and sixth avenue you told Mr. Murphy, at that time, is that right? A Yes.

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BY JUROR NO. 1:

Q You testified when the defendant came from the basement he used both of his hands to put on his coat? A Yes.

Q Did you see anything in his hands then? A I did not.

Q Were you familiar with this place at 645 Sixth avenue?

A Yes, sir.

Q Was there a liquor license there? A No.

Q Do you know whether they sold intoxicants there or not?

A No, I don't.

MR. BROTHERS: I do not see how that is material.

Q You don't know anything about that? A No.

Q You say this man, this deceased, was a poolroom operator, is that right? A Yes.

Q At some number further down on that block? A At that time I believe he had a poolroom between 44th and 45th streets.

BY THE COURT:

Q When you say poolroom, what do you mean? A A pool table-- pool and billiard parlor.

BY MR. KELLY:

Q Had you ever been in that place? A No.

Q That was used and generally visited by Greeks, was it?

A I don't know. It is out of our precinct, and off my post.

Q Where was it, you say? A Between 44th and 45th streets.

Q Oh, this is up some distance north of 42nd street? A Yes.

Q How long after this occurrence, after September 20th,

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was this place at 645 Sixth avenue closed, this restaurant?

A I believe it was closed the following day, or two days later, or the day after, I am not positive.

MR. KELLY: That is all.

BY MR. BROTHERS:

Q Officer, was this article handed to you that night, - I forgot to ask you that (indicating paper article)? A Yes.

Q Where were you at the time it was given to you? A On 37th street on the south side of 37th street, near Fifth avenue, between Fifth and Sixth avenues.

Q Who handed it to you? A A citizen, a young man, unknown to me.

MR. BROTHERS: I offer it for identification.

(Paper article marked People's Exhibit 2 for identification.)

Q Was this article, People's Exhibit 2 for identification handed to you before you grabbed hold of the defendant, or after you had hold of him? A After I had hold of him -- no, I got that before I had him -- no, no, I had hold of him, that is right.

Q Had you started back on your way to Sixth avenue when the young man handed it to you? A Yes.

Q How far had you gone? A A few feet from No. 4. we were perhaps in front of No. 10.

Q This young man handed it to you and then disappeared? A Disappeared in the crowd, yes, sir.

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Q something was said about light ---

MR. KELLY: I move to strike out all the testimony about the testimony as not connected.

MR. BROTHERS: we intend to connect it.

THE COURT: I will leave it in subject to being connected. If it is not connected, I will strike it out.

MR. KELLY: I respectfully except.

Q These other buildings adjacent to 645, did they have lights in them that night? A Oh, yes, the barbershop at 645 had a bright light outside.

Q so you had no difficulty from where you stood in seeing these people as you have described? A Oh, no, very bright.

Q About where were you when you say that the defendant saw you? A I don't know when he saw me.

Q But you told counsel. He asked you whether he knew you were chasing him, and you said that he did. Now, will you explain that? A He might have seen me as he passed me. I was standing there in full view.

Q And you pursued him down towards Fifth avenue and 37th street; did he look back? A After I started to run I rapped with my stick.

Q With your stick? A Yes, sir.

Q where was that? A On 37th street, about here (indicating-, in front of 66 or 68 East, near Sixth avenue.

Q What did the defendant do? A He continued running.

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Q Did he at any time, while running through that block from Sixth avenue towards Fifth avenue, as you were pursuing him, look around in your direction? A I don't recollect.

BY MR. KELLY:

Q Were there many other people in that block at that time?

BY MR. BROTHERS:

Q Wait a minute please. The question of counsel was directed to whether he walked towards you when he left the restaurant? Am I correct in saying that you were on the opposite side of the avenue? A Yes, sir.

Q He did not come over on your side? A No, sir.

Q Nor come in your direction? A No, sir.

Q But you were a bit south of where he came out of the restaurant? A Yes.

Q When he came southerly? A Yes.

Q And on the other side of the street? A Yes.

Q Had you heard while you were across the street there any disturbance from the restaurant there? A No.

Q Any noise? A No.

MR. BROTHERS: That is all.

BY THE COURT:

Q About how long, Officer, before you saw the men coming up the steps, was it, that is to say the steps of this basement restaurant, that you had passed along on that side of Sixth avenue in front of the restaurant? A It may have been an hour.

Q That restaurant was on your post? A Yes, sir.

MR. KELLY: That is all.

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D R. A L B E R T T. W E S T O N, M d., called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BROTHERS:

Q You are a physician and surgeon, are you? A I am.

Q You were graduated from what institution of learning?

MR. KELLY: We will concede his qualification, if that is what you want.

Q You have been practicing a great many years, have you, here in the City? A Yes.

Q You have been Coronor's Physician for how many years?

A Twenty-seven.

Q You have made thousands of autopsies, have you upon dead bodies to ascertain the cause of death? A Five or six thousand.

Q Did you autopsy the body of Nicholas Lialakus in this case?

A I did.

Q Can you recall the date? A It was in September, 1915.

MR. CLARK: We will concede he made the autopsy and found the man dead.

Q Here is your memoranda; is that what you made at that time?

A The 20th of September, 1915.

Q Who identified the deceased body to you? A Officer Tetzner, the preceding witness on the stand.

Q When you viewed the body of this man, he was dead, was he?

A He was.

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Q What was the external appearance of his body? A The external appearance was normal, except for a wound on the left side.

Q Describe the wound and its position to the jury. A The wound was on the left side of the thorax, the lower portion, in the lower part, at a point just above the freeboard of the ribs. It was a wound about 1-1/2 or 1-5/8 inches in length.

BY THE COURT:

Q Will you put your hand, about, Doctor, where it was?

A Here (indicating left side in the ribs).

BY MR. BROTHERS:

Q What space is that? A It is what is known as the anterior axillary line. It is a line drawn from the shoulder downward and just anterior to that line, in front of the axillary line. It is a line drawn from the fold of the muscles at the shoulder downward. It is just in front of that line.

Q That wound, you say, was how long? A It was an inch and a half to one and five-eighths inches in length.

Q What kind of a wound was it? A It was an incised wound, cutting wound.

Q Done with a sharp cutting surface? A A wound done with a cutting instrument.

Q Did it have just one dimension? A Well, the edges of the wound were separated.

Q It was open? A Yes.

Q Were there any other external marks of violence found?

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A That is the only external mark of violence on the body.

Q Then you examined the interior of the body, did you? A Yes.

Q Will you tell the jury what you found upon the examination of the interior of the body; -- this is all in the same time?

A It is immediate. The next step was to examine further. The wound was a penetrating wound, passing through the muscles of the chest wall, passing through between the seventh and eighth rib, passing through the chest cavity of the left side, passing through the diaphragm, through the walls of the stomach and severed the aorta.

Q The aorta is what? A The aorta is the great blood vessel which carries the blood from the heart downward through the body, passes close to the back bone, the spinal column.

Q Did you measure the depth of the wound you have described, from the outer skin to the innermost part or region? A Yes, sir.

Q How deep was it? A Well, the wound was approximately seven and a half inches deep. It could be traced through its different tissues about seven or seven and a half inches deep.

Q So that the instrument that caused it must have been a long, sharp, cutting instrument? A It was.

Q Did you find any other injuries of any part of the body?
A Only the wound through the various tissues which I have described.

Q The same wound? A It had the same track, right through the different tissues I have described.

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Q Did you form at that time an opinion as to the cause of the man's death? A I did.

Q What was it, with reasonable certainty? A It was a stab wound with a perforation of the aorta.

Q Caused by this stabbing? A Caused by the cutting instrument.

Q His other organs, you examined them all? A Yes, I did, that is, the vital organs. They were in normal condition, except for the loss of blood.

MR. BROTHERS: That is all.

BY THE COURT:

Q This body was the body of a man about how old, would you say? A Why, he was a man thirty odd years, a muscular man.

Q About what weight and size? A I should think the man weighed 155 pounds, and five foot six.

CROSS EXAMINATION BY MR. KELLY:

Q Where was this performed? A At the City Morgue, foot of 29th street; corner 29th street and First avenue.

MR. KELLY: That is all.

MR. BROTHERS: That is all.

J O H N A. R Y A N, (an officer of the 23rd Precinct)
called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BROTHERS:

Q Are you a member of the Police Force of the City of New

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York? A Yes, sir.

Q And you have been how long? A Four years and eight months.

Q In September of last year, you were patrolman on duty at what precinct? A 23rd Precinct.

Q On the night of September 20th, shortly before 10 o'clock, where were you on duty? A Why, before 10 o'clock, I was assigned in front of disorderly premises 141 West 41st street. I was relieved there at 10 o'clock and assigned to patrol posts 24 to 28, inclusive, from 44th to 42nd streets, Seventh to Madison avenue.

Q Did you go into 37th street later? A I got into 37th street at 11 o'clock.

Q What time was it that you got over to 37th street and Sixth avenue? A I should judge about 11:15 p. m.

Q Have you any way of fixing that? A Well, I dispersed a free speech meeting at 37th street between Broadway and Sixth avenue at 11 o'clock and remained there and saw that they did not continue with their meeting.

Q Just where was that meeting? A On the north side of 37th street, about midway between, well, about 100 feet east of Broadway.

Q That would be between Broadway and Sixth avenue? A Yes.

Q In which direction did you send these people? A Well, I sent them in both directions, dispersed them towards Broadway and some towards Sixth avenue.

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Q Did you go down towards Sixth avenue? A I did.

Q When you got down to Sixth avenue, did you see anything there, and if so, what was it? A Why, there was a crowd of people there and I met Officer Tetzner and Sheehan.

Q Where were they? A On 37th street just west of Sixth avenue, north side of 37th street west of Sixth avenue.

Q What were they doing? A Looking down into the grating where they said --

THE COURT: Not what was said.

A (Continuing.) They were looking down into the grating.

Q This grating was where? A Covering the areaway adjoining the trunk shop on the corner of Sixth avenue and 37th street.

Q Had they any light? A They had a lantern in their hands.

Q Did you look? A I did.

Q What did you see? A Well, I saw what looked to me to be a knife.

Q Where was it? A Down in the areaway beneath the grating.

Q Beneath the grating? A Beneath the grating.

Q Where did you go then? A I went into 637 Sixth avenue, went up through the hall and out through the first floor apartment to a rear shanty, and crossed over to the adjoining building, 635. The upper part of the building is vacant. I climbed to the fire-escape, where I saw a window open and entered that.

Q Is that the corner building? A Yes, sir.

Q That is on the northwest corner of 37th street and Sixth

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avenue? A Yes.

Q Who was with you? A I was alone when I went upstairs through the building.

Q Did you admit anybody into the building? A When I came downstairs I admitted District Attorney Murphy and Officer Gillman, and Detective Ditsch.

Q Did you get down finally, without making too long a story, into the basement of that building so that you could reach out under that grating that you have described? A Yes, I got down and opened the window and went out under the grating.

Q What did you find there? A I found a knife there.

Q What did you do with the knife? A I picked it up by the hand, by the blade end with a piece of paper, and handed it to Assistant District Attorney Murphy.

Q And he took it away with him? A Yes, sir.

Q Did you look at the knife? A Yes, sir.

Q Can you describe it? A The blade was about eight or nine inches long and the handle was about two and a half or three inches long, a long, bright blade. The handle had a sort of a curve on the end of it, a slight curve on the end of it.

Q After you handed that knife to Mr. Murphy, where did the party go that was down there? A We all came upstairs and they went around on to Sixth avenue and I remained to secure the premises that I had forced open.

Q After doing that, where did you go? A I went around

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Sixth avenue, and helped to keep the crowd in check, and at 11:40 p. m. I was assigned to watch the body in the basement of 645 Sixth avenue.

Q The knife which you took out from beneath the grating and handed to Mr. Murphy, was that the knife which you had seen through the grating from the sidewalk? A Yes, sir.

MR. BROTHERS: I offer it for identification.

(Knife marked People's Exhibit 3 for identification.)

Q Examine People's Exhibit 3 for identification and tell me whether that is the knife which you picked up from beneath the grating and handed to Mr. Murphy? A Yes, sir.

Q When you got into the restaurant, the basement of 645, you saw the man's body lying on the floor, did you? A Yes, sir.

Q Did you observe the wound upon him? A I did.

Q He was dead, then, was he? A Yes.

Q How long did the body remain there? A I was relieved at midnight, shortly after midnight.

BY THE COURT:

Q The body was still there then? A The body was still there when I was relieved.

Q Who relieved you? A Officer Ashworth.

BY MR. BROTHERS:

Q Did you examine the grating that was over the areaway in which you found the knife, so that you could tell us about how it was made, and the space between the bars of it? A Yes, sir.

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Q About how wide were those spaces? A About, not less than an inch and a half apart.

Q Then it ran along for some distance? A Yes, sir, and back into the wall.

Q That was used to admit light into the cellar, was it?

A Yes, sir.

Q When you dispersed this crowd at 37th street, before coming down to where you saw Officer Tetzner and Sheehan, was there considerable disorder in the street at that time? A Yes, sir, there were a lot of people around.

Q Were you the only officer who was sending this crowd away?

A There were other officers there.

Q Was it a large crowd? A It was a large crowd.

MR. BROTHERS: That is all.

(At this point the court suspends for five minutes.)

CROSS EXAMINATION BY MR. CLARK:

Q Ryan, have you seen this diagram, People's Exhibit 1?

A No, sir.

Q I show it to you, do you get it, this is Sixth avenue running north, here is 37th street running east and west (indicating), Fifth avenue there (indicating) and Broadway over here (indicating to the west). A Yes.

Q What time did you get over to this meeting? A About 11 o'clock.

Q About 11? A Yes.

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Q Where did you come from? A I came from 41st street and Broadway.

Q You came down Broadway from 41st street? A Yes.

Q You knew there was a meeting at 37th street? A Yes.

Q Where was the meeting, on the north side of the street?

A On the north side of 37th street.

Q And the people filled up the street, did they? A Yes.

Q They filled across to the south side? A They did not block the street; we had to keep it open.

Q But it required the police force to keep that street open?

A Yes.

Q Had that meeting been going on for some time? A Yes.

Q You had seen the crowd there early in the evening? A I had not seen the crowd before. I was not on patrol there.

Q How long a block is that between Sixth avenue and Broadway, at 37th street, is that a short block? A Yes, it is not very long.

Q Any more than -- well, 36th street is the north side of the Herald Building? A The south side of the Herald Building?

Q You mean the Herald Building on the north is on 36th street?

A Yes.

Q Well, 36th street between Broadway and Sixth avenue measures the distance of the Herald Building; there is no more than that building there? A Yes.

Q And this is one block further up? A Yes.

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Q This areaway where you broke in was under the barbershop?

A No, sir.

Q Where was it? A At the trunk shop.

Q Right next to this candy store, which is shown on the projection of this little rectangle, the word "trunks" is; is that so? A There was an express man's booth there. I do not know before that night, but from the time I was there it was an expressman's booth. I had not been familiar with the post there.

Q So at any time between 10 and 11 o'clock, if a man had turned that corner, he would have found a big crowd within a short distance beyond what is indicated on this map? A Yes.

MR. CLARK: No further questions.

MR. BROTHERS: That is all.

MR. BROTHERS: We offer in evidence, upon consent, the floor plan of the cellar of 645 Sixth avenue in the City and County of New York, drawn to the scale of three-eighths of an inch to one foot, showing the condition of things as they were at the time the draughtsman drew it, on the 20th of November, 1915.

(Diagram marked in evidence as People's Exhibit 4.)

THE COURT: We will understand that in point of fact it is the second exhibit in evidence, although it has been marked No. 4.

MR. CLARK: It is understood with regard to this that the location of the tables there is not stipulated to be as

it was on that night, that is subject to proof.

MR. BROTHERS: The tables might have been arranged a bit different than they appear here, but the general plan is assumed to be correct.

MR. CLARK: The measurements were taken on the 20th of November, two months after this occurrence.

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J A M E S M A N O L I A S (9 Washington street) a witness called on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BROTHERS:

Q Mr. Manolias, in what business are you? A I am an artist and photographer.

Q What is your nationality? A My nationality is Greek.

Q You have been in this country how long? A Eighteen years.

Q Has that been your occupation all that time? A yes, sir. First I came here, I was working in a paper box factory.

Q We will not go back as far as that, but the last few years you have been an artist? A For the last eleven years.

Q How long have you lived at 9 Washington street? A Eleven months.

Q Are you married or single? A Married.

Q Do you know the defendant here? A I saw him in the basement on the 20th of September. I never knew him before.

Q You did not know him before that time? A No, sir.

BY THE COURT:

Q What basement do you mean? A 645, I believe, Sixth avenue.

BY MR. BROTHERS:

Q Who ran the restaurant in that basement? A Two people ran that place, one is Stereos something, - Palamas, and the other one I don't know the name.

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Q Had you ever been in that restaurant 645 Sixth avenue before the night of September 20th, 1915? A Yes, sir.

Q Had you been there a number of times? A Yes, sir.

Q When you went in there on the night of September 20th, about what time was it you arrived there? A It was about between 9:30 to ten o'clock, I could not state exactly.

Q Where had you been just before getting there? A I was in 29th street and Sixth avenue with a friend of mine, John Demitros. He is a witness in the case too. We walked towards 37th street. There was a girl by name of Olympia came from the west some place, from the western states, doing singing and dancing and we went there to hear that, what kind of singing she does.

Q That is, you understood there was signing and dancing in the restaurant, 645 sixth avenue? A yes, sir.

Q Did you and your friend go -- what is his name? A John demitros.

Q Go into the reataurant together? A yes.

Q When you got in there it was between 9:30 and 10 o'clock?
A something around that time.

Q When you got into the restaurant, did you sit down? A There was another friend of mine, John Economo, he runs a place in 18 West street.

Q He was in the party? A He was in the basement.

Q He was there when you got there? A Yes, he invited me and my friend to have a drink with him.

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Q You sat down at a table, did you? A Yes.

Q Can you tell me, perhaps if you look at the plan, it will help (showing People's Exhibit 4 in evidence)? A This is the entrance of the place (indicating entrance). There is little gates here (indicating line drawn across the floor marked "railing").

Q The fence? A Yes. There was a stage in there (indicating place marked platform at the southwesterly portion of the room.) There is where Johnny Gonomo was sitting (indicating second table from stage at the left-hand side).

Q Where did you sit? A This table was full (indicating same table). John had so many friends in there.

Q How many do you think sat there? A About five or six. I did not count exactly.

Q Is that the table at which you sat? A I sat on this end of the table, at this table (indicating space between first and second table, but first table from stage) because there was not room enough on this table (indicating table at southwest corner of room next to platform).

Q As you sat there which way were you facing? A My face was looking towards, to the stage. I was looking this way and that way too, indicating to stage and I was watching that girl.

Q Was the girl up on the stage? A Yes, sir.

Q singing? A Singing, with four musicians; a little orchestra.

Q These tables that are on the plan, People's Exhibit No.

4, out in the centre here, indicating two tables in the centre, were they there? A Those tables, I believe, this table, (indicating first table from the front in the centre row) was outside this little place here (indicating just in front of place marked "railing").

Q There was a bigger space on the stage? A Yes.

Q The centre tables on the plan were further down towards the door, towards the front? A This table, (indicating first table of centre row) was outside this fence (indicating "railing"). This other table (indicating second table of second row) was inside the fence (indicating just inside of railing).

Q Were there many people in there when you came in? A It was about twenty or twenty-five people in the place.

Q You had something to drink, did you? A Yes, sir.

Q Did you know at that time a man named Nicholas Lialakus, the man who was killed there that night? A I didn't know his name, but I saw that man Lialakus, with another fat young man, you know, stout.

Q The question is did you know him before you saw him?

A I never knew him before.

Q He was a stranger? A Yes.

Q The defendant here was also a stranger? A I never saw him before.

Q Did you notice where the defendant was in the restaurant?

A Yes. Defendant came after I got in the place. He came in

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in a hurry; he sat on the other side of the store.

THE COURT: pardon me a moment, if it meets with your approval, suppose this witness tells us in his own language just what he saw when he got in the place and what he did.

MR. BROTHERS: Perhaps that would be better. I wanted to get the position of these people and then let him tell what he knew.

BY THE COURT:

Q I would like to have you tell the jury what the different people were doing as you came into the restaurant? A They were sitting down drinking as far as I know.

Q At what tables? A In different tables, all around the store.

BY MR. BROTHERS:

Q I want to know, first, where you noticed the defendant first in the place? A I noticed him when he got up and danced, to dance.

Q From what place did he get up? A I was sitting on the left side of the store, as you go in, and he was on the other side of the store, on the right side of the store.

Q So the width of the place was between you? A Yes.

Q Was he sitting at a table? A Yes.

Q You noticed him get up? A Yes, sir.

Q At what table did you notice that Lialakus, the man that

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was killed, sat? A Right in the middle table.

Q Show us on plan, People's Exhibit No. 4? A This table as I said before (indicating first table in centre row) was outside this fence (indicating railing), and this table was this side of the fence (indicating second table of centre row at point just inside of railing). He sat at this table, right close to this fence. (Indicating railing)

Q That would be the centre table, just inside the fence ?

A Yes.

Q Begin from there, please, and tell us all that you saw happen, from the time the defendant got up to dance. Tell us about the dance, what he did. A I noticed that the defendant got up, and he had his coat off, only with one striped shirt, different colors on the shirt, pink, and so forth, and black and something like that, he got up and called the girl down to dance with him.

Q Which girl? A Olympia, the dancing girl. She went down from that little platform and he went there with his shirt, and he had his pants and shirt on, and they commenced to dance, as the orchestra was playing. At the same time one of the bosses noticed that Lialakus had an argument with the proprietor of the place. The proprietor didn't pay much attention. He made a motion with his left-hand, made a motion he should not bother him.

Q That is, towards him? A The proprietor told Lialakus

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at the same time the dancing was going on, while the boss was coming from the entrance, going back towards the kitchen, he made a motion not to bother him, and he walked towards the kitchen. Afterwards, I suppose he got mad or something and took a beer glass, one of those shell glasses, and throwed the glass up. It was empty. He threw it up and the glass fell down and got broken.

BY THE COURT:

Q Who threw up the glass? A Lialakus.

Q Who was he? A The man that got dead.

BY MR. BROTHERS:

Q What happened after that? A After that he took some money in change out of his pocket?

Q Who did? A Lialakus, the dead man. I don't know where he got that change. It was nickles and dimes and different money.

Q It was coin? A Some kind of coins. He threw them up to the stage, because the Greeks, when they dance, they are supposed to tip the musicians. They are supposed to throw money to the musicians. They don't get paid from the proprietor where they work.

Q Well, he threw the money up? A Yes, and the boss proprietor went back to him again and told him something. He grabbed proprietor. The proprietor grabbed him by the chin with one hand and the other hand on his head (witness indicates by putting right-hand to his chin, and left hand to the top of

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his head) and shook him up. I could not hear what he told him, but I saw he done that. Lialakus, the dead man, at the same time he sprang, tried to take away, but the proprietor stood there.

Q What did this friend do? A This friend got up, Lialakus, dead man,- dead man got up, they had a quarrel with the boss.

Q Did they strike each other? A They never struck each other, only by talk. At the same time the dancing was going on.

Q When they got up and passed a little, they went about two yards from the table, the defendant broke away from the dance, let the girl dancing alone. The girl did not know where he was going, and as he reached, as he got close, from here to that table, about that (witness indicates a distance of about six feet I saw him open his shirt, that striped shirt and pull out a knife, a shiny knife, something like a hunter's knife, like that, (indicating about eleven inches long with his fingers).

Q Is that about the size of it? A It was about ten inches or eleven inch knife.

Q Where did he get the knife? A Right inside of his shirt. He opened his shirt, it was one of those soft shirts. He opened his shirt, unbuttoned the shirt, pulled out the knife and raised it up like that (witness indicating by putting his right hand above his head).

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Q Above his head? A Yes, sir, and as he got there he tried to hit Lialakus, the dead man, but Lialakus was at a table, that outside table, and he twisted himself towards the table, so he could not reach him. (Witness indicates by moving his body slightly downward as in the act of evading a blow), because there were other people, but the second time he got him. He raised up his hand and hit him, right here (witness indicates on left side, of chest).

Q Where you are putting your hand now? A Yes.

Q On the lower part of the chest? A Yes (indicating left lower part of the chest).

Q Did you see him do that yourself? A Yes.

Q When he did that what happened? A When he did that, you know, we all got half dead; we got excited.

Q You were frightened? A I sat in my place.

Q You sat still? A I sat still watching, because the Greeks are funny people. When they drink they mix up, they don't know who is who.

Q I don't want your observations? A I thought myself ---

THE COURT: stop and wait until you are asked questions.

Q When you saw the defendant strike the second time, and you saw the knife enter the chest of Lialakus, then what did defendant do? A Defendant go back on that side of the store.

Q Which side. A Right across the side from where I was sitting.

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Q The right-hand side? A Right-hand side, and got his hat and coat, and start walk towards the door to get out.

Q Were his hat and coat hanging up? A Yes. He took his hat and coat.

BY THE COURT:

Q Was the deceased, the dead man, sitting alone at the table, or were there other people sitting there with him? A One or two people were sitting with him.

Q Do you know the names of those men? A One is outside, I don't know his name. He is here as a witness.

Q But at the time that the man who is now dead was out, as you say, was he sitting down or standing up? A Standing up.

BY MR. BROTHERS:

Q You say you saw the defendant then go get his hat and coat and go towards the door? A Yes.

Q What door do you mean, the street door? A It is only one door, the street door.

Q Did you see him when he went out of the door? A When he reached the door I reached him then. I never saw him any more until ten minutes when they brought him back.

Q He was brought back? A Yes.

Q Who brought him back? A Some officer.

Q The man that the officer brought back was the same man that stabbed the deceased? A Yes, sir.

Q What became of Lialakus after he was stabbed? A After he

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he got cut with the knife he took one of those match holders where you put matches in and tried to throw it at him, as he did so, he did not throw it in a certain direction.

Q That is, it fell out of his hand? A Yes. Then he commenced to, when he tried to throw that, he commenced to lower himself down. (Witness indicates by slightly sinking to his knees, and one of his friends that is outside, held him under the arms, tried to help him. There was some vinegar in the bottles I tried to use. After that everybody ran out.

Q A lot of people ran out into the street? A Yes, after that I took some vinegar and tried to put it in his nose. We tore his shirt and tried to help him along, but he was gone. When the first officer came in I asked --

Q do not state that. To go back a moment, look at the plan and tell me if you can, point out to the jury on People 's Exhibit No. 4 whereabouts the defendant was sitting when you say he got up and danced? A Sitting around here some place, that at one of those tables on the north side of the room. I believe he was sitting here between these two tables (indicating two tables at north side of the room).

Q He sat at about that place? A Yes, right across from where I was.

Q When he got up to dance, will you indicate in what part of the room he and Olympia danced? A Right here. (Witness indicates a point near platform).

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Q How long was he dancing there before he went towards Lialakus with the knife? A He was dancing about five minutes.

Q Right close to you? A Yes.

Q You were interested in the dance were you, and you were watching it? A I was watching them.

Q He had no coat on? A No, he had no coat on.

Q You said you noticed his shirt, a peculiar shirt? A Yes, sir.

Q Just where was Lialakus when the blow was struck? A Right outside of this gate, this fence, (indicating railing). This first table was outside of this fence, and this second table was inside the fence. They got to this fence, turned around and hit him right about here (indicating with a mark).

Q Mark it; put an "L" there where he got hit. A Right about here. (Witness indicates by marking a "L"). He fell down here outside of the railing. The argument was started and his friend tried to pull him out. He reached him here and struck him with the knife, right there (indicating left side of chest).

Q Was anything said by the defendant at the time he left Olympia and left Lialakus, did he say anything? A No.

Q Did Lialakus call out anything? A Not that I heard.

Q How far away was Lialakus from the defendant at the time he took the knife out from beneath his shirt? A About from here to that table (indicating distance of about seven feet).

Q From where you sit to the table? A Yes.

MR. BROTHERS: We had that distance measured yesterday

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and it was about seven feet.

Q Then he had several steps to walk before he reached Lialakus? A Two or three steps or something.

Q Will you describe, if you can, how the defendant went towards Lialakus, whether he went slowly or quickly? A He was quick. When he started he tried to search his shirt. I don't know what he was searching about.

Q He went quickly? A Yes, how you walk quick to get something, you know.

Q And he said nothing? A said not a word.

Q Did they come back later into the place with a knife? A Yes.

Q You saw it then? A Mr. Murphy brought the knife.

Q The knife which Mr. Murphy brought back, had you ever seen that knife before? A When he pulled out the shiny knife?

Q The question is, did you see the knife that Mr. Murphy had in the restaurant that night, before you saw it with Mr. Murphy?

A Yes, I did, when he was holding it in his hand.

Q Who was? A The defendant.

Q Was it the same knife? A Yes, sir.

Q Will you look at defendant's Exhibit 3 for identification, is that the knife? A That is the knife (indicating People's Exhibit 3 for identification).

Q The knife that the defendant had? A That is the knife the defendant had.

Q When you first saw it in his hand was the blade bare?

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A Yes, shining like (indicating hold knife in his right-hand by handle).

MR. BROTHERS: That is all.

CROSS EXAMINATION BY MR. KELLY:

Q You say this defendant when he left Olympia had to travel the distance of about from your chair to this table (indicating counsel table, a distance of about seven feet), in order to get to where Lialakus was? A No, sir, I didn't say that. I said from where he was dancing the distance between the argument and where the defendant was dancing was from here to those gates down there (indicating railing of court room immediately beyond the counsel table). That is where the defendant was dancing with Olympia, and as he reached, when the argument was going on, he ran from here to that table (indicating about seven feet), and then he pulled the knife out.

Q He ran that distance, from where you are, to the table? A Yes.

Q And then put his hand inside? A Yes.

Q And pulled out the knife and then ran the distance from there to the railing? A Yes.

BY THE COURT:

Q Now, you pay careful attention to me. do you understand?
A Yes, sir.

Q And if you do not understand what I ask you let me know. About far was the defendant from this Lialakus at the moment when you first saw the knife in the defendant's hand, do you

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understand that? A You mean where Lialakus was sitting.

Q How far was the defendant when you saw the knife first in the defendant's hand, from where Lailakus was at that moment? A It was from here to that table (indicating about seven feet).

Q Which table? A This table (indicating table in front of jury box). About two yards, or such.

Q That is to say, when the defendant was about two yards from the deceased, you saw for the first time the knife in the defendant's hands? A Yes, sir.

THE COURT: You may proceed, Mr. Kelly.

BY MR. KELLY:

Q When you saw the defendant put his hand inside of his shirt and pull it out, is that right? A Yes.

Q Lialakus and the boss of the place, and Lialakus's friend were between you and the defendant, weren't they -- that is the defendant came in this direction, from up here where he was dancing, came down this way (indicating from near platform towards railing)? A He was dancing in the other corner.

Q Which corner? A Here. (Indicating near platform)

Q He came down in this direction (indicating towards the front)? A Yes.

Q And he came down towards the front of the store and drew out a knife, is that right? A Yes.

Q And you were there on this side, weren't you? (Indicating

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on south side of room) A Yes.

Q And he continued down on which side of the tables that were in the centre?

THE COURT: You must remember, according to the witness, at that time there was only one table in the centre on the inside of the rail.

Q On which side of that table? A The space in the middle was empty, you know.

Q There was one table in the centre? A Close to the fence.

Q Close to the railing? A Yes, on the inside, and one on the outside.

Q One on the inside and one on the outside? A Yes. (Indicating to the east and to the west of the rail)

Q When the defendant ran from here, where the dancing was (indicating near platform) down to here, on which side of this table did he run, on the side nearest to you? A On this side (indicating on north side of table).

Q That is the side away from you? A Yes, sir.

Q When you saw him put his hand inside of his shirt how far away from him were you at that time? A Between from here to where you are standing (indicating a distance of about 10 feet).

Q About this distance? A Yes.

MR. KELLY: About 9 feet?

MR. BROTHERS: I think it is nearer 10 feet.

A I could not guess exactly, but I believe that is about the

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distance.

Q Did he run at the time, the defendant? A He was running fast, yes. When he tried to reach the knife, he stopped a little bit. He pulled out the knife.

Q Then did he run fast again? A He ran right to that dead man and tried to strike him.

Q In which hand did he take the knife? A In this right hand..

Q He had his back turned to you, didn't he, when he put his hand in his shirt? A No.

Q Had he passed you at the time? A I was sitting on the side, and as he was walking, he pulled the knife right out in front of me.

BY THE COURT:

Q At the moment that he pulled the knife, as you say, out, what was the dead man doing? A He was quarreling with the boss.

Q Standing up or sitting down? A Standing up.

Q Did he have hold of the boss? A No, sir.

Q Did the boss have hold of him at that moment? A I don't believe they were holding each other.

BY MR. KELLY:

Q The defendant had been dancing up here is that right (indicating near platform)? A In here (indicating near platform).

Q When he left here (indicating position near platform), he went over towards the railing on the north side of the premi-

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ses, is that right? A He come right about here and pulled the knife, but there was no table here (indicating point about first centre table from railing). Right about here where this table is. He ran from here to here (indicating with lead pencil dot). He pulled the knife right close to where this table was.

Q This table was near the railing then? A Yes, and the other table was on the outside then.

Q And as he got close to this table inside the railing, he pulled the knife out? A Yes, he stopped a little bit and pulled the knife.

Q You had not left your place here at this table, had you?
A No, not until I saw the man.

Q Before this time, I mean, when you saw this going on, you had not left your place at the table? A I just had been watching.

Q And you were facing in the direction of the platform? A I was facing and looking this way (indicating across the premises. I had my attention to my friends on this table, and then I was looking over there too. I was looking to my friends and watching the dance too, you know.

Q When he got over there you saw him pull this knife out of his shirt? A Yes, sir.

Q How long did it take him to cover the distance from that point where you saw him draw the knife to the point where Lialakus was? A Did not take him a second; how long it takes

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a man to walk from here to there.

Q He was in motion all the time, wasn't he? He kept moving all the time towards Lialakus? A Yes.

Q When he got there did you see him raise up his hand once?

A Yes, sir.

Q How high did he raise it? A As high as he could raise it.

Q Away up high and brought it up, and then down? A Yes, and Lialakus twisted his body and he could not strike him.

BY THE COURT:

Q The first time he brought his hand down with the knife in it, he did not strike Lialakus with the knife? A No.

BY MR. KELLY:

Q Was Lialakus facing him at the time he reached him? A No, he was facing the boss.

Q With his back towards the defendant, is that right? A Yes.

Q And when he got there, Lialakus pulled aside as this man came down with the knife, the first time? A Yes.

Q Did he immediately put it right up again? A Yes.

Q And came down the second time? A Yes, and struck him right here (indicating).

Q Did you see what became of the knife then? A He took the knife a long.

Q Did you see him take it with him? A Yes, he walked towards, on the left-hand side of the store, took his hat and coat and ran out. I never saw him any more until they brought

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him back.

Q Did he put on his hat and coat? A No.

Q Did he have them both in his hand? A Yes. He took his hat and coat and knife in his hands and tried to walk as fast as he could out of the door.

Q Was there any blood on the knife? A Not very much.

Q Any dripping off of it? A No. No blood came out of the dead man's body either.

Q You were born in Greece, were you? A Yes, sir.

Q What part of Greece? A Close to Sparta.

Q That is near the lower part of Greece? A Yes, sir.

Q Known as old Greece? A Old Greece, yes. Down near Kosmos. That is in Sparta.

Q What kind of a dance was this that was going on? A A regular Greek dance. They dance something like -- they never hold each other, but they dance close.

Q They dance close to each other, but they never hold each other? A They never hold each other.

BY THE COURT:

Q The other persons who had been seated at the table with the deceased, what were they doing when the defendant raised his hand, as you say, the first time to cut the deceased? A The other men that were sitting with Lialakus?

Q Yes. A One tried to take him away, to take him out.

Q I mean before he was cut? A Before he was cut they tried

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to walk out with him. At the same time the boss had an argument with Lialakus. That is why they got up to go out, to go out of the store altogether.

Q At the moment when Lialakus was out, was there anybody sitting there at the table at which Lialakus had been sitting?

A No, sir.

BY MR. KELLY:

Q After this defendant did what you said he did, he had to go inside the railing again, did he? A Yes, sir.

Q And go over here to where these two tables on the north side, inside the railing were, to get his hat and coat? A Yes.

Q And then came out again, made through that railing again, is that right? A Yes, sir.

Q How many people were in that place? A They were running out, I don't know, I could not guess. They all got excited.

Q How many were running out? A Seven or eight or ten people.

Q Did anybody run out before the defendant? A Yes, when they saw the knife.

Q They started to run out then? A Yes, sir.

Q How many ran out? A About fifteen or twenty.

Q How many were left in there then? A About ten or twelve people.

Q And none of those ten or twelve people tried to prevent the defendant from getting out, did they? A Yes, some people followed him.

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Q But nobody tried to stop him as he went from the place where Lialakus was, back to his own table, and then came out again? A The girl waitress tried to hold the door, and he cut her arm.

Q Which waitress, Olympia? A No, the waitress outside here, she is waiting, she cut her arm with the knife.

Q She tried to close the door here (indicating basement door on map)? A Yes.

Q But she did not try to close it when any of the others were leaving? A No.

Q None of the men tried to stop him going out? A No. When the boss tried to stop him he made a motion to hit him.

Q Had you ever seen the defendant in that place before?
A No, sir.

Q Did you know the defendant? A No.

Q You knew Lialakus, didn't you? A I never knew him. I saw him by sight.

Q You saw him in there? A I saw him out on the street. He had business.

Q The deceased you saw on the street? A Yes, sir.

Q Where? A Sometimes out in the street. I saw him by sight, I never talked to him.

Q Were you ever in his place on Sixth avenue? A No, sir, I don't know where his place is.

Q But you saw him around the neighborhood? A I saw him around the neighborhood.

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Q How long have you seen him? A Once or twice.

Q You had never seen the defendant before? A No, sir.

Q And he had no part in this argument between the boss and Lialakus at all, had he? A Not that I know of. We all got surprised why he hit him.

Q It just came as a thunderbolt? A Yes.

Q Just the same as if I should take a knife and go at Mr. Clark now? A Yes, just as I should hit one, all at once.

Q All these people that ran out as soon as he pulled the knife out, all ran in a bunch to the door, and tried to get out as fast as they could? A No, not all together. Some ran out and some went back to the kitchen, because they got scared.

Q But these people that ran out, you said there were ten or fifteen people ran out? A Well, after he got out, then the bunch followed him.

BY THE COURT:

Q How many people, if any, passed out of the front door of that place after the cutting, before the defendant? A I could not tell you.

Q Did any one? A Well, five or six or ten, something like that, but when he got out, the door, I believe was closed, and they could not get out.

BY MR. KELLY:

Q You say five or six or ten ran out to the door before this defendant, is that right? A The door was closed as far as I know, but when he got out, then the bunch went up.

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BY THE COURT:

Q Pay careful attention: this defendant, as you say, stabbed or cut the defendant; now, before the defendant left the restaurant, but after the cutting, did anybody leave the restaurant by going through the front door out on to the street? A Yes, it was about seven or eight or ten people, I could not count them exactly, because I paid more attention to the dead man, you know.

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BY MR. KELLY:

Q What happened after this happened? A I tried to help the dead man.

Q After that? A After that they brought him back. They measured the place up. We stayed there and then they took us to 46th street and Lexington avenue, in the patrol wagon.

Q You were placed under arrest too, were you? A Well, they held me for witnesses.

Q Did you immediately talk this case over with Mr. Murphy from the District Attorney's office? A He asked me how it happened, the defendant's trouble up there, and I told them.

Q Weren't you asked that before you left the premises at 645 Sixth avenue? A What is that?

Q Didn't Mr. Murphy, the Assistant District Attorney, ask you how it happened before you left the restaurant at 645 Sixth avenue? A No, Mr. Murphy did not ask me nothing. He asked me a few questions how it happened.

Q He asked you how it happened? A Yes, at the same time they measured the place.

Q When you got up to the Detective Branch on Lexington avenue you were asked again up there how it happened? A Yes, sir.

Q And you went over your story then with the police and detectives, is that right? A I told them what I saw.

Q Did you testify before the Grand Jury? A Yes, sir.

Q Did you testify before the coronor? A Yes, sir; -- no,

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not before the coronor.

Q How many times did you go over this story with the police or with the District Attorney or with his representatives since the happening of this event, up to the time you came to court here today? A About three or four times.

Q You talked it over with the police the night of the occurrence, didn't you? A Yes.

Q And when was the next time you talked it over? A I could not remember, a couple of months after, I guess.

Q Did you talk it over the next day, on September 21st, with anyone, when you were brought to the House of Detention? A No, sir.

Q Did you talk it over any time after the night of the occurrence up to the time you were bailed out on September 23rd? A Talked to whom, do you mean?

Q To anyone. Did you talk to any one of the other witnesses about how this happened? A What can I talk to them? They all know the same as I do.

Q Did you talk about that? A No, sir.

Q Did you talk it over with Demitros, about this event at all? A No.

Q You never mentioned it to him? A No.

Q He was bailed out the same day you were? A Yes.

Q And you and he are friends, aren't you? A We are friends.

BY THE COURT: Q When the knife was in the hand of the defendant,

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did you see any part of the handle of the knife? A No, I could not see the part of the handle, but I saw the blade.

Q What is there about this knife which has been shown you in court today, and which is marked People's Exhibit 3 for identification, which enables you to say that that is the knife which the defendant had in his hand at the time when, as you say, he cut the deceased? A Because I saw the blade.

Q What, if anything, is there about that blade, that enables you to say that that blade is the blade of the knife that the defendant held in his hand at that time. If you understand that question, answer it. A Yes, because I saw that is the knife, because I saw the knife. I saw it just as plain as I can see it now.

Q Can you mention anything about that blade which enables you to say that that is the blade of the knife that you saw in the hand of the defendant, with which you say he did the cutting? A Well, that knife I could see part of that there steel back by the handle. I could see the blade very plainly. I seen the knife, you know. I can tell in a year after. It was more polished, more new.

BY MR. KELLY:

Q The defendant was about the distance that I am from you now (indicating about six feet) when you first saw him taking out this knife? A Yes.

Q He was going away from you, wasn't he? A He pulled it

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in front of me.

Q He was going away from you? A No.

Q He was going from this point that you indicated, from that direction, to the front? A There is where he was dancing near the platform (indicating near platform).

Q He was there when you first saw him? A Yes.

Q Then he ran over, and when he got to this point, the first table that you marked with a leadpencil, you saw him pull the knife out? A Yes.

Q But you were sitting here (indicating)? A Between these two tables (indicating the two tables on the south side of the room between platform and rail).

Q And he continued toward the railing? A Yes.

Q When you first saw him he was a distance of from where you are sitting to where I am standing (indicating about eight feet)? A Yes.

Q He was going away from you? A He stopped there and pulled the knife a second.

Q You could see him pull that knife out and just put it up in the air once like that (indicating bringing hand to shoulder)? A No, over his head.

Q This way (indicating bring hand over head)? A Yes.

Q And jab it down (indicating)? A Yes.

Q And then a second time? A Yes.

Q And now today you remember the knife? A I remember that

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is the knife.

THE COURT: We will take a recess now, Gentlemen of the Jury; you are admonished not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon until the same has been submitted to you.

We will take a recess till 2 o'clock.

(Court takes recess till 2 o'clock.)

TRIAL CONTINUED, 2. p. m.

JAMES MANALIAS, recalled for further cross examination, testifies as follows:

CROSS EXAMINATION BY MR. KELLY: (Continued.)

Q I believe you said you talked over this case with the detectives and with Mr. Murphy, the Assistant District Attorney, that night at the detective Headquarters on Lexington avenue, is that right? A Yes, sir.

Q Who else was there at the time you talked this case over?

A Well, all the witnesses were there, but they were downstairs. We were in a private room.

Q All of you together were in a private room when you talked it over? A In a private room with the District Attorney.

Q Were there any detectives there? A Some detectives.

BY THE COURT:

Q When you were talking it over with the District Attorney or the District Attorney's representatives in a private room,

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were the other witnesses there in the private room? A No, sir, they were all downstairs in another room.

BY MR. KELLY:

Q Now, after that day, September 20th, when did you next talk over this case with the District Attorney or with any representatives? A I never saw the District Attorney after then.

Q You never spoke to him again? A No.

Q Didn't you talk to him at the time you appeared before the Grand Jury; did you talk to any Assistant District Attorney before you appeared before the Grand Jury? A No, sir.

Q Did you talk over the case with Mr. Brothers, the Assistant who is trying the case here? A Yes. I believe it was last week some time.

Q How often did you talk it over with him? A Only once; he asked me how it happened.

Q Who else was present at that time besides Mr. Brothers; were the other witnesses there? A No other witnesses in the room; they were outside.

Q Did you ever talk this case over with your friend Demitros? A Yes, some.

Q How often did you talk it over with him? A We were in the House of Detention for four days together.

Q And all the other witnesses were there at that time too, weren't they? A Some got out the next day.

Q But some of them were in there for those four or five days

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that you were there? A No, some got out. They left me and John Demitros and two other people were still in the House of Detention and the rest, I believe, got out next day.

Q And you four that were in the House of Detention talked it over while you were there? A Yes, we said what we saw.

Q You talked it over together about what you saw and what Demitros saw and what the other two saw, is that right? A Yes.

Q You compared your stories? A I said what I saw, you know and John Demitros said what he saw

Q Did you talk it over in Greek or in English? A Well, we generally speak our own language, the Greek language.

Q And then since then you and Demitros would talk it over when you would meet, wouldn't you? A Not since then, because the fourth day I got out of the house of detention on my bail, then I minded my own business. I didn't bother very much with this.

Q Demitros is here today, isn't he? A Yes, sir.

Q Did you talk it over with him today? A No.

Q Did you talk to him about the case at all today? A We talked; that we got into trouble without knowing anything.

Q You told him what your story was today, and he told you what his story was, while you were standing outside? A Where?

Q Out in the corridor this morning? A I did not tell him my story.

Q Did he tell you his story? A No, sir.

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Q But he did tell you how it happened according to his version, didn't he, that is, he told you what he saw? A Some time ago, yes.

Q What were you drinking that night? A I believe I had coffee .

Q Is that all? A Turkish coffee, what they call demitasse.

Q Is that what Demitros was drinking? A I don't remember what he was drinking, but we had our supper, and after we had our supper we went to that place that night. About half an hour before we had our supper with John Demitros in 28th street and Sixth avenue.

Q Did you see the defendant come into this place? A Yes, sir.

Q How long before this fight between the boss and the deceased occurred, did he, the defendant, come in? A I don't remember exactly, around fifteen minutes, something.

Q There was nothing in particular to attract your attention to him up to that time that he went up and asked Olympia to dance, was there? A Yes.

Q Was there or was there not? A Well, I noticed him, when he got in.

Q Why did you notice him particularly? A Because I was sitting and I could see all the parts of all the store. I saw him come across.

Q You had your party of friends at the next table, at the table beside you, with whom you were talking, did you, and then besides that, you were interested in the music which was on the

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other side of you? A Yes. But I had my chair, I did not have it towards one table or the other. I had it towardsthe wall. I was looking just as I am looking now, into the store. That store is not so very big so that you cannot see.

Q There was a large party of friends sitting just about where the stenographer is now, compared to where you were sitting?

A Yes.

Q Their table was where this table was? A There is a wall. There is where my friends were sitting (indicating to his left) and there is the other table (indicating to his right), and there is the stage where they were dancing (indicating to his left) and I was sitting and talking to my friends and I looked at the dancing at the same time.

Q There were about twenty to twenty-five people in this place at the time? A Yes.

Q And yet you say you noticed this man especially when he came in? A When he came in I noticed he sat right across the side from me. I did not pay much attention to him.

Q When the defendant started towards Lialakus, the dead man, Lialakus had his back toward you and toward the defendant, didn't he? A There is where I was sitting, there is where the stage and table was (indicating to his left), there is where the dead man was (indicating to the right) from here to that desk (indicating table in front of jury box).

Q He was standing up? A He was sitting down with one of his

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friends or two of his friends.

Q At the time that this argument was going on between the dead man and the proprietor of the place, the dead man was standing up at the time, wasn't he? A No, sitting down.

Q Was he still sitting down? A He got up the time the boss came back, when he broke the glass. The proprietor came back. The entrance was that side (indicating to the right). Then he came this way and told the boss something, the proprietor. Then the proprietor didn't pay much attention, but he walked towards the kitchen (indicating to the left) at which the little door and window were where they pass drinks and meals and everything else. There was the stage (indicating to the right) and there is where the dance was (indicating to the right). There is where the dead man was (indicating right). There is where the defendant was (indicating centre). Before him about the girl was singing. They had been playing.

Q Now, here, Mr. Witness, you have gone over that. What I am getting at is, when the proprietor came back towards the dead man, then the dead man stood up, didn't he? A No, he was sitting down and told the boss something, when he was coming from the entrance (indicating to the right) from the outside door, through the gate he stopped the boss and told him something, but I could not hear what he told him.

Q Then the boss started toward the kitchen? A The boss said, "Don't bother me, made a motion like that with his left

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hand. (Witness indicating by pushing his hand from him.) He walked toward the kitchen. At the same time he took one of his beer glasses, the dead man, and threw it up like that. The glass fell down and broke to pieces. Then the boss got excited or something and went back and got hold of him with his right hand by the chin and the other hand by the head (indicating). The boss got a hold of the dead man like that and shook his head, the dead man's head.

Q The boss shook the dead man's head? A Yes.

Q And then at that time was the dead man sitting down?

A The dead man got up.

Q Then he stood up? A Yes, with his friend.

Q He and the boss had an argument then? A Yes.

Q And the defendant came toward the dead man? A The dancing was going on at the same time. Here was dancing (indicating to the left). The defendant was dancing with the girl, while the proprietor had the argument with the defendant.

BY THE COURT:

Q You mean the proprietor and the deceased? A Yes, and he broke away from the girl, left the girl alone dancing, he passed right in front of me, stood there for a second and pulled the knife out.

BY MR. KELLY:

Q Right in front of you? A Yes, from here to where you are. (Indicating a distance of about eight feet.) He pulled the knife.

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I could see the brand new knife shining, and went over to him.

Q But at that time when he got over to the dead man, was the dead man facing him, or did he have his back to him? A Well, he had his side to him.

Q Which way was he facing? A That way, on the left side (indicating sideways).

Q He had his left side towards the defendant? A Yes. Then defendant passed around the back of him, on the right side of him and tried to strike him, but the dead man -- outside the fence, there is where the table was -- the dead man tried to keep himself back, and fell right on top the table. And while he was lying on the top of the table the second time he struck him here (indicating left side of chest).

Q How long did that take? A About a minute; half a minute or something, I could not remember how long it took. It did not take very long.

Q And then the defendant walked over and took up his things to go out? A Walked quick and took his hat and coat and walked towards the door, at the same time people were going out.

Q Going out in front of him? A Yes, and then some people followed him.

Q Up to that time the door had not been open? A Yes, the door had been open. .

Q Did some one close the door then? A Yes.

Q Before the defendant? A The door always was closed.

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Q Wasn't the door open on this night on account of it being so warm? A The door was closed, because, the way I understood, the music makes so much noise.

Q So they kept the door closed? A Yes.

Q And then the defendant went over and started to go out and finally went out of the door? A Yes.

Q How did the door open; did you pull it open or push it open? A Pulled it, I believe.

Q Was he putting on his coat at the time? A I don't think so.

Q You are not sure about that? A No.

Q Did he have his coat in his hand, carrying it on his arm?

A I guess that is the way.

Q Where did he have the knife at that time? A In his hands.

Q He still had it in his hand? A Yes.

Q When he went out of the door, you still saw the knife in his right hand? A Yes.

Q No question about that? A No question.

Q And you recognize this knife now? A That knife. I could see the knife because it was shiny, and that steel piece close to the handle, and those lines on the middle of the knife.

MR. BROTHERS: You better let us have that in Greek.

BY THE COURT:

Q When you speak in Greek, speak in a loud tone so that this defendant and the interpreter employed by the defendant's counsel

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may hear what you say in the Greek language. Say that over again.

A (Through Mr. DeVille, the official interpreter.) The bend of the point of the knife and the concave part, the straight cavity in the knife are the two points that I can bring to my mind and recognize the knife.

(Witness again answers in English.)

Q That is, you recognize the knife on account of the point here? A Yes, on account of those parts here (indicating projection of steel at handle), on account of that steel that it has on the handle.

Q Didn't he have this in his hand? A Yes. That part I could still see plain, that part close to the handle.

Q But you could not see the handle of it at all? A No.

Q You are sure he had that knife in his hand as he left the place? A Yes.

Q What was the name of this dance they were dancing? A Olympia, I guess.

Q The name of the dance, not the dancer? A A Greek dance, as far as I know.

Q Do you know the name of the dance? A I tell you those dances they dance. It is some kind of a Turkish dance. It looked like some part as the Irish jigging dance where two people dance together. That is the national dance, that is all I know.

Q Can you point out on this map where you came from, what part of Greece you came from (handing map to the witness)? A Right here, Leonidion, there is my town, K'osmas.

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THE COURT: You better have that map marked.

MR. CLARK: I offer it for identification.

(Map marked Defendant's Exhibit A for identification.)

BY MR. BROTHERS:

Q None of us asked you how many were dancing? A Two.

Q Just the defendant and Olympia? A Yes. The orchestra was playing, and he stopped the orchestra to dance. He stopped the orchestra playing and singing for everybody in the house. He stopped that specially to dance.

BY JUROR No. 3:

Q I would like to ask you if, when the deceased threw this glass of beer in the air, , if the glass or the beer fell on anyone concerned in these proceedings? A Fell right in the front where he was sitting. He threw it up like that (indicating) and broke it. He did not mean to interfere with anybody.

THE COURT: Strike out "He did not mean to interfere with anybody.", and the jury will disregard that.

A (Continuing.) Just because he did not get satisfaction from the proprietor.

MR. CLARK: The former employer of the defendant, who is a restaurant keeper at Schenectady, has come down here in response to a letter. He is a character witness and I would like to call him now, while I do not like to break in on the proof.

THE COURT: I will hear him without prejudice to any motions which you may seek to make at the conclusion of the People's

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hl
case.

GEORGE HALKAIPOLOUS (Schenectady, New York),
called as a witness in behalf of defendant, being first duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLARK:

Q Where do you live? A In Schenectady.

Q Whereabouts there? A Dakota street.

Q What is your business? A Lunchroom place.

Q A little louder, please. A A restaurant.

Q How long have you been there in Schenectady? A About
five years.

Q Did you go to Schenectady since you came to this country?

A Yes.

Q Where did you come from? A From Greece.

Q What part of Greece? A Lefkos, southern Island.

Q Island of Lefkos? A Yes.

Q When you went to Schenectady what business did you take
up? A Peddling fruit.

Q That is you had a fruit store? A Yes, sir.

Q How long have you been in the restaurant business? A I
was just a year in the restaurant business. Before I was in
the fruit business.

Q You were in the restaurant before the fruit business?

A No, before I was in the fruit business and in the restaurant
business I am only about a year.

Q You have a restaurant on one of the business streets in

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Schenectady.

Q you know this defendant? A Yes.

Q Savas? A Yes.

Q How long have you known him? A I think about eight months ago I seen him; I don't know exactly how long.

Q How did you come to know him? A He was in Schenectady. He looked for a job. I seen him in the restaurant, and I wanted a man and I put him in my place.

Q You put him in as an employee? A Yes, sir.

Q What was his business? A Cashier.

Q How long was he with you? A About three or four months.

Q Was there any interruption of that period? Did he go away at any time? A He left one time. My partner had somebody else to put in his place, and after that we took him back again.

Q Afterwards you took him back again? A Yes.

Q Do you know where he went in the meantime? A He went to Albany for a couple of days and came back to Schenectady.

Q Did you know other people who knew him while you were there, people he associated with? A Well, sure. All the people know each other if you see them like that.

Q Do you know what his reputation is for peace and for quiet? A To me he had a good reputation; he always worked in my place.

Q All the time he worked with you he had a good reputation?

A Yes.

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MR. CLARK: Your witness.

CROSS EXAMINATION BY MR. BROTHERS:

Q Did you know him before he came to Schenectady? A No, sir.

Q With whom did he live in Schenectady? A With his cousins.

Q One of them was a young lady, was she? A I don't know anything about it.

Q Who were the cousins with whom he lived? A His cousins, Zabas.

Q Were they men or women? A A man.

Q Did he tell you about his girl cousin? A No.

Q Didn't you know that he had a girl cousin that he lived with? A No.

Q You didn't know anything about that? A No.

Q Did you ever go to his lodgings? A Where?

Q To the place where he lived? A No.

Q Did you ever see these cousins you have spoken of? A Yes, sir, - you mean the girl cousin?

Q The men cousins? A Yes, sir, every day.

Q They worked for you too? A No, one used to work after he left.

Q You say he was perfectly good all the time he was up there?

A Part of the time he was there, yes.

Q Nothing happened to him up there, did there? A No.

Q Sure about that? A I am sure; I didn't know anything about it.

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Q You never heard anybody say anything bad about him? A No.

Q But you had to go on his bail once up there, put up \$50 when he was arrested? A Because of the girl.

Q Did you? A Yes, because it was complained he followed a girl, and the girl made him free. That is nothing, everybody can walk in the same street.

Q The girl said something about him? A Yes.

Q You did not tell us about that? A I don't think that would be bad.

Q You didn't think it amounted to anything? A No.

Q Is there anything you don't think amounted to much that you have not told us? A I don't know anything about it.

Q Did he carry a knife up there? A No, sir.

Q Sure? A Yes.

Q Did you ever see this knife (indicating People's Exhibit B for identification)? A No, sir.

Q Ever see a knife anything like it? A No.

Q Never in your life? A Maybe I seen it in stores, but not on the man.

Q You do not use any knife like that in your restaurant?

A No, sir.

Q Such knives as I have in my hand are not used in restaurants? A I never use it in my restaurant.

Q And you never saw it in any other restaurant? A No, sir.

MR. BROTHERS: That is all.

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BY MR. BROTHERS:

Q When this occurrence happened to which the District Attorney has referred, when Savas was arrested and you went on his bond, when he came on for hearing before the Judge was he acquitted? A No, sir.

Q What happened when he came before the judge; what did the judge do? A He asked him if he bothered the girl, and he said no, just walking down the same street.

Q What did the Judge do? A The Judge said, "You be careful, don't bother girls, because next time you get pinched.", and he was free.

MR. CLARK: That is all.

DEACON MURPHY, (40 East 49th street) a witness sworn on behalf of the People, being examined, testified as follows:

DIRECT EXAMINATION BY MR. BROTHERS:

Q Mr. Murphy, you are an attorney are you? A I am.

Q And up until the first of this month you were deputy Assistant District Attorney of this County? A I was.

Q For how many years were you such? A Since the 2nd of October, 1911.

Q And for several years, up to the last of December, you were in charge of the Homicide Bureau of the District Attorney's office? A I was in the Homicide Bureau for about three years,

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a little bit over, and in charge of it for the past six or eight months.

Q Did you in the course of your official duties on the night of September 20th, 1915, go to the premises 645 Sixth avenue in this City? A I did.

Q In whose company did you go? A I went over in company with Mr. Pfeiffer, then deputy Assistant District Attorney assigned to the Homicide Bureau.

Q Have you any recollection of the hour you arrived at that place? A Approximately ten o'clock, possibly a little later than that.

Q You received a telephone message to go there, didn't you?

A I did.

Q The Homicide Bureau is on duty all the time, day and night?

A It is.

MR. CLARK: we will concede that.

Q You had been in my company that evening until you received that message? A I had.

Q Where were you when you got the message? A Columbia University Club, 18 Grammercy Park.

Q And you went immediately to 645 Sixth avenue? A I did.

Q On the street car? A Yes, on the street car.

Q When you arrived at those premises, what did you do? A There were a number of police officers in the premises, at the door, and there was the body of a man lying a little

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distance inside the door. My recollection is his head was somewhat towards the door.

BY THE COURT:

Q Will you have the kindness just briefly to describe those premises to the jury? A Yes, your Honor. It was downstairs, a flight of stairs leading down from the sidewalk on Sixth avenue, about half way between 37th and 38th street on the west side of Sixth avenue. There are ten or twelve stairs that lead down, and then there are two doors. When I went down there they were locked. I knocked on them and a uniformed officer opened the door. I came in and found a number of tables around in the room, with a cleared space toward the rear of the room. On the left-hand side, in the corner of the room there was a sort of a platform. There was a rail that ran across a part of the distance if my recollection is correct, from the left-hand side of the wall, towards the centre; and there were a number of tables around that. There were, I should say, altogether twenty-five people in the room, a number of them being police officers. Defendant was sitting off in one corner in the custody of an officer. There were a number of Greeks there.

BY MR. BROTHERS:

Q Did you observe the clothing of the defendant at that time?

A I did, yes.

Q How was he dressed? A I don't remember at that time whether or not he had his coat on or not.

Q You saw him during the night there? A I saw him afterwards

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during the night and I paid more attention to his clothing later when he was in the Second Branch Detective Bureau, East 37th street.

Q After you had been in there a little while did you go somewhere else? A I did.

Q Where? A I went around the corner into 37th street, a short distance from sixth avenue, on the northwest corner of 37th street. There was a grating there and there was an officer standing by the grating, and a number of officers were there. One of them had a lantern, and we looked through the grating and I saw a knife lying down some four or five or six feet on the bottom of the place that was under the grating. I told one of the officers who was there to break in and get the knife. He tried going into one of the stores, and going up over the wall, and then over the roof of the house, but could not get in, and came down again and finally broke in the door leading into the rear of the trunk shop, which was right on that corner, and from there we went downstairs. I went with two of the officers into the cellar of this trunk shop, and one of the officers climbed through a little window that opened out to this space under the grating. I could not see what he did. There was a small space and his body practically blocked up the space, but he came back instantly with a knife which he held in his hand, holding it by the point. He delivered that knife to me, and with the officers I went upstairs and went back

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again and around the corner into the saloon and gave the knife to Detective Ditsch.

BY THE COURT:

Q What did that cellar appear to be occupied as, or used for, as you passed there as far as you observed? A I know it was a trunk shop upstairs. Whether or not it was stored with trunks down below, or whether it had other articles in it, I don't know.

Q As you passed through the cellar was there anybody in the cellar? A No, sir.

Q Besides yourself and the officers? A Not besides myself and the two officers.

Q About how large was this place where the officer went and came out with the knife? A It was a space under the grating. It could not have been much larger than the platform that this witness chair is on. It might have been about six feet long at the utmost, and possibly three feet wide about.

Q With respect to the level of the cellar floor, about what was the level on which the officer got from there out of the window? A He was somewhat higher than the cellar floor. I should say he was about half way between the street level and the cellar floor level, possibly a little higher.

Q In other words, on the 37th street side of the building, there were windows, I take it in the cellar, looking out, which if they had been upon the street level would have looked out on to 37th street? A Yes, your Honor.

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Q And those windows received their light through a grating that was on the level of the sidewalk on 37th street? A Yes, your Honor.

Q And this space that the officer went out to, and from which he came back with the knife in his hand was on the level of the sills of the cellar windows? A Yes, your Honor. I think there was only one window that was open. There may have been another, and if there was another it was closed.

Q Did you yourself look out into that space from which the officer came, that is to say, from the cellar? A I did not put my head out into it. I looked into it.

Q Did you look into it before the officer came out of it?

A Well, I looked into it as the officer was going into it.

At that moment did you see anything in it? A No, sir, at that moment I did not.

BY MR. BROTHERS:

Q Had you seen from above before you went into the cellar, did you see the knife? A Yes, sir.

Q Did you observe its shape and general appearance? A I could see the gleam of the blade.

Q You say one of the officers handed the knife immediately to you after reaching into this aperture? A He sort of took it from the aperture, turned around and gave the knife to me.

Q Did you examine the knife? A Yes.

Q Where were you when you examined it? A I looked at it

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when I got up into the street, and I looked at it again as I was walking down to the saloon where the homicide had happened. I also looked at it again in the saloon.

BY THE COURT:

Q Was there anything on the blade of it as you looked at it, observable to the eye? A Yes, your Honor.

BY MR. BROTHERS: Q What was on it? A There were red spots.

Q Resembling what? A Blood.

Q Will you look at People's Exhibit 3 for identification, and tell me whether you recognize that? A Yes.

Q What is it? A That was a knife that was handed to me by the officer that I have described.

Q From beneath the grating? A Yes.

Q Is it in the same condition now as it was when received by you from the officer? A No, it is not.

Q In what respect is it different? A There is a nick in the wooden handle and figures "78" scratched on it, which were not there when I got it from the officer.

Q The condition of the blade, is that the same? If not, in what respect does it differ? A Well, some of the spots that I spoke of are still on it in this little groove that runs down here, but the color is different. They were red at the time I saw it.

Q What color are they now? A A kind of dirty brown.

Q Was there any other person present in the basement of

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645 Sixth avenue who examined this knife in your presence, besides Officer Ditsch? A A number of the officers looked at it; I don't know whether Coroner Feinberg looked at it there, or at the station house -- no, he looked at it down in the basement.

Q When you had it in your hands did you put anything on it, or take anything off it? A I did not.

Q You carried it with care, did you? A I did.

Q You examined some of the witnesses there, did you? A Not there, in the second branch detective bureau.

Q Did you have a stenographer? A I had.

Q And that was in the course of your duty, and as you usually do? A Yes.

BY THE COURT:

Q Pardon me a moment. When you left the cellar, you went back to the premises 645 Sixth avenue? A Yes, your Honor.

Q In going back to those premises, were you accompanied by any one? A I was accompanied by several police officers. I think Mr. Pfeiffer was with me also.

Q Going back to those premises who, if you know, had possession of the knife? A I had it in my hand.

Q When you got to the premises 645 Sixth avenue, were there any persons inside? A Yes, your Honor, there were a number of Greeks and a number of police officers.

Q After you entered those premises what, if anything, did you

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do with the knife? A Gave it to Detective Pitsch.

Q How soon after you entered the premises? A Almost immediately thereafter.

Q Did you see the man Manalias there that night? A The name is familiar, your Honor.

Q Did you see the knife shown to any one in that restaurant?
A A number of witness looked at it, your Honor, in fact it was laid on the table.

THE COURT: You may proceed, Mr. Brothers.

MR. BROTHERS: I am through.

CROSS EXAMINATION BY MR. CLARK:

Q When you went in there, Mr. Murphy, did you take any note of the condition of the place? A You mean make mental note, or dictate notes?

Q Mental notes? A I looked around the place generally, yes.

Q I show you People's Exhibit No. 4, and I ask if you recognize that as a diagram of the floor plan? A Yes, that seems to be a diagram, just about in accordance with my recollection of it.

Q When you went in where did you find the body? A My recollection is right about here (indicating).

Q Where the mark "L" is? A I should say at about that place. I did not measure it exactly, but it was in that line as far as the door is concerned. I do not think these tables (indicating in the centre of the room) were here. I think they

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were pushed back. I think there was one table over here near where the body was (indicating near point "L").

Q How many of these greeks whom you took over to the second Branch Detective Bureau were there in the place at that time?

A I really don't know. We had an automobile patrol wagon, and it was crowded to overflowing with people sitting down and standing up and holding on to the back step, and riding on the side of the patrol and the running board as well.

Q Was the woman there? A No.

Q The dancer? A No, the dancer was not there.

Q From your recollection can you state or estimate at all how many people you took from there, the Greeks? A I would not like to say off-hand how many I took. I could refresh my recollection by referring to the minutes that were taken at that time.

Q Did you make a memorandum of those that were taken at that time? A No, but my stenographer who was present with me at the branch took statements from a number of witnesses, and I could tell from those statements. A day later he turned them over to me, about how many I examined at that time, but that would not state what I took over.

Q Didn't you examine all that you took over? A I think I did.

Q Where was the knife laid? A My recollection is that the knife was placed on a table that was near the body of the deceased.

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Q But everybody came and took a good look at it? A But nobody touched it.

MR. CLARK: I move to strike it out as not responsive.

THE COURT: strike it out.

A Well, I don't know about getting a good look; several people came over and looked at it, at my specific request, some of them.

Q Do you know whether Amanalias looked at it? A I would like to see Manalias.

(At this point the witness Manalias was called into the court room)

A Yes, he was there. He looked at it.

MR. CLARK: Is it intended that the witnesses after they have testified, should remain in here?

THE COURT: Well, whatever is more agreeable to you.

MR. BROTHERS: That is the usual rule; the best thing would be rather to have them out of doors; but either way suits me.

Q Did you see any blood in the place? A No; I saw some blood on the dead man. I do not recollect seeing any blood on the floor.

Q Or on the table? A I do not recollect any blood on the floor or on the table.

Q Blood was on the dead man's clothes? A A little.

Q And you are sure there was blood on the knife? A Yes, sir.

MR. CLARK: That is all.

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CATHERINE LIALAKUS, (347 west 37th street)
called as a witness on behalf of the People, after being first
duly sworn, through Official Interpreter deVille, testified as
follows:

DIRECT EXAMINATION BY MR. BROTHERS:

Q Are you related to the deceased in this case, Nicholas
Lialakus? A Yes, he was my brother.

Q Where did he live shortly before he died? A 250 West
36th street; we lived together.

Q In what business was he engaged? A He kept a poolroom.

Q Whereabouts? A 44th street and Sixth avenue.

Q How old was he? A Twenty-nine.

Q Was he married or single? A Single.

Q Did you see him after he was dead? A Yes, sir, I came here
and buried him.

Q At what place did you see him first after he was dead? A
At the hospital. (Meaning the Morgue)

Q The Morgue, attached to the hospital? A Yes.

MR. BROTHERS: That is all.

MR. CLARK: No questions.

BERNARD A. DITSCHE, (Second Branch Detective Bu-
reau) sworn on behalf of the People, being first duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. BROTHERS:

Q How long have you been a member of the police force of the

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City of New York? A It will be fifteen years, June 30th, this year.

Q Your present rank is what? A Acting detective Sergeant of the First Grade.

Q You have been in the Detective Bureau how long? A Ten years.

Q On the 20th of September, last year, were you a member of the Homicide Squad? A Yes, sir.

Q Did you respond to a call and go to the premises 645 Sixth avenue, this City? A Yes.

Q Give us the hour as well as you can remember that you got there? A It was between 10:20 and 10:25 p. m.

Q Have you a note of that? A I have (looking at book).

Q Is that the note that you made at the time? A Yes, the alarm came in at 10:15, and I judge I went there in about ten minutes.

Q Did you go alone? A No.

Q Who was with you? A One of the men assigned. It was a new man. I don't know his name, went with me across to the premises.

Q When you arrived at 645 Sixth avenue, you entered into the basement did you? A Yes.

Q What did you see? A I saw a man was stretched out on the floor. He was dead. He had been pronounced dead by an ambulance surgeon, I understand.

Q You saw a wound upon him? A Yes.

Q Where? A It was about half an inch underneath the heart.

Q That would be on the left side of the body? A Yes.

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Q At that time did you see the defendant here? A I did.

Q Where was he? A The defendant was sitting at a table at the extreme right side upon entering the basement.

Q Who was with him? A There was an officer sat beside him. Of course in the room there was different other people, about ten or fifteen other people were in the room.

Q What did you do? A I told the officer ---

Q Not, what was said, what did you do? A I went towards the defendant, and I wanted to know ---

BY THE COURT:

Q Not what you asked, - what did you do? A I went towards the defendant.

Q Did you talk to him? A Yes, sir.

Q Did he make any replies to you? A Yes, sir.

Q In what language? A I spoke to him in English.

Q Did he reply in English? A Yes, sir.

Q After you talked with him what did you do? A I went towards the officer and spoke to him.

Q Were you shown a knife there that night; did you see a knife? A Yes, sir.

Q Where was it you saw it first? A The knife was lying in the basement. There was a grating over it.

Q Did you see it there yourself? A Yes, that very first time I saw the knife because I had a flash light, and flashed the light towards where the knife was lying, and I saw the shining object

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which afterwards proved to be a knife lying in that basement.

Q Who was there at the time you were looking down through the grating? A Ex-Assistant District Attorney Mr. Murphy, Officer Sheehan and Officer Ryan, and Ex-Assistant District Attorney Mr. Pfeiffer and myself.

Q Where were you at the time that it was removed? A We had to force an entrance.

Q We have had that. I think we can shorten things. Did you go down in the basement? A Yes. One of the officers picked the knife up. The second time when I saw the knife I went back to the premises. The knife was given to me, to my best recollection to Ex-Assistant District Attorney Mr. Murphy at the time.

Q That was in the basement of the restaurant? A Yes.

Q When you took the knife did you examine it? A Yes, sir.

Q Will you describe whether you could see anything upon it at that time? A On the groove of the knife there was a small spot, which I asked ---

Q No, you can describe the spots that were on the knife? A There was a small spot on the groove of the knife, about in the centre. I took the knife and treated it to see if there were any finger prints on it, by using as chemists call grey dust, a combination of chalk and mercury. I noticed a red spot on the knife in the centre.

Q Did you show that spot or call it to the person's, or anyone's attention? A Yes.

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Q Who was that person? A I showed it to Coroner Feinberg. Also showed it to Ex-Assistant District Attorney Murphy.

Q Did you do anything else to the knife besides putting this grey powder on? A Yes.

Q Whereabouts on the knife did you put the powder? A I put the powder on the blade.

Q Did you put it on this red spot? A I did.

Q That was for the purpose of determining the presence of finger prints? A Yes.

Q You did not distinguish any, did you? A No.

Q What else did you do to the knife? A I marked the knife with a penknife, engraved number "78" on it, also made a slight cut, extending from the blade to a part of the handle.

Q "78" I see is your shield number? A Yes. I took notes of the knife in the memorandum book, as to the make of the knife, length of the blade, which I have now, if I may be allowed to refer to it.

Q First I will show you the knife we have here, People's Exhibit 3 for identification, and I ask you whether that is the knife you have described? A That is the knife. That is my mark on it, and my shield number, as I just testified about.

Q As long as you have heretofore measured the knife, and if there is no objection we will take your measurement. Will you give us the dimension, Officer? A I measured the length of the knife, twelve inches, blade seven inches, width 1-1/2 inches,

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marked "78". That is entered in my memorandum book, the entry I made at the time.

Q You took charge of the knife and delivered it to the Assistant District Attorney before trial? A Yes.

Q Will you point out or indicate on that knife, the spots or spot that you spoke about? A Yes, sir, right here (indicating), slight discoloration there and here, also the centre of the blade there (indicating).

Q Took at People's Exhibit 2 for identification, did you see that article that night? A Yes, sir.

Q Where did you first see it? A That was given to me before the knife was recovered.

Q Do you remember who handed it to you? A To the best of my recollection it was given to me by one of the witnesses previously before the knife had been recovered. I know the man is living in Washington street. His name is a long name. If I may be allowed to refer to my book I can give you the name.

Q If that will refresh your recollection, I have no objection. (Witness looking at book) A James Manalias.

(Mr. Brothers asked James Manalias to stand up in the court room.)

Q Is that the man? A Yes, sir, and at the time it was given to me I marked it with a cross.

Q Where were you at that time? A In the basement of the premises where the murder was committed.

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Q Is it in the same condition now that it was then?

THE COURT: I think I will strike out the words, "Where the murder was committed." The jury will disregard that.

A Yes, with the exception that the stamp is placed on it. (Referring to identification mark).

Q It was tied this way with the string? A Yes, in the same condition.

Q Did you ever fit it over the knife? A Yes.

Q It acts as a shield, does it, or a scabbard? A Yes, sir.

MR. CLARK: I object to that and move to strike it out.

THE COURT: Strike out the balance after the witness says it fitted over the knife.

Q Was there anything else you did there, Officer? A Why, yes, I had conversations with different people, including the police officers.

Q You made an investigation? A I did.

Q Did you accompany the others in the patrol motor over to the station house? A Yes, sir.

Q To the Detective Branch? A Yes, sir.

BY THE COURT:

Q About how long had you been in the basement of 645 Sixth avenue when, as you say, you were handed the People's Exhibit 2 for identification? A About five minutes.

BY MR. BROTHERS:

Q Was the defendant at that time in the basement? A Yes, sir.

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Q Was he there when you arrived? A Yes, sir.

Q Did you observe the shirt that the defendant had on? A
As to color?

Q His outer shirt? A Yes, sir.

Q What was there about that that you can tell us, the
appearance of it? A You mean the color of the shirt itself?

Q Yes, the pattern? A I would say it was pink, what you call
a very loud shirt. As to its color, known as loud.

MR. CLARK: I object to the characterization.

THE COURT: Sustained. He may give us the colors of
the shirt and such particulars.

A It was a stripe, running in this direction (indicating up and
down) pink, white and black.

Q It was noticeable, was it? A It was a noticeable shirt.
I would call it a loud shirt.

Q Mr. Clark: I object to the characterization.

THE COURT: strike out the characterization. The testi-
mony about the colors may remain. I will ^{not} allow the witness to
characterize it as a shirt loud or otherwise. That is a matter
of opinion of the witness.

Q Were the stripes of considerable width, or were they narrow?
A They were of considerable width.

Q You did not take the shirt from him, did you? A No.

Q When you last saw it he still had it on his back did he?
A Yes.

MR. BROTHERS: That is all.

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CROSS EXAMINATION BY MR. CLARK:

Q You mean to say you cannot tell who you went over to that place with that night? A It was a new man.

Q Can you tell who it was? A I could not.

Q You have not got it noted there? A No, sir.

Q You don't know the man's name? A I would know his name if I would be allowed to go to the Branch. It was a new man assigned to the Bureau. I have covered everything that occurred that night, except who went over with me, because I have to rely entirely upon my own investigation.

Q You had been ten years in the Detective Bureau at that at that time? A Yes, sir.

Q Have you seen the man since? A Yes, sir, but not for two weeks. I am away from the Bureau; I am in the school of instruction.

Q Have you seen him here? A Not today.

Q Yesterday? A No, sir.

Q You cannot tell us now who it was? A I could not. I don't know his name.

BY THE COURT:

Q Could you give us that name by the opening of court tomorrow morning? A Yes, sir. It is only a matter of going over there tomorrow.

BY MR. BROTHERS:

Q Was it Fraser or Cooney? A No, it was not Fraser, and

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Cooney was at the premises when I got there.

BY MR. CLARK:

Q How many were there in there when you got there? A How many officers, or men?

Q Yes? A There was Officer Cooney --

Q I mean Greeks? A I should judge about fifteen or sixteen.

Q You say you first saw this knife down there in the basement? A Yes, sir.

Q Did you remain up above the grating while the other went down? A I went with them.

Q You were with Mr. Murphy when he went down there? A I should think I was directly behind Mr. Murphy.

Q You were there when this was handed back? A Yes, sir.

Q How much of this red matter did you see on the knife at the time? A As much as I can see now.

Q You said you saw blood when you looked at it, and after you had looked at the knife you said these were spots? A I said there is discoloration. The color was more pronounced at that time than it is now. It is faded away.

Q But you say now, after looking at the knife that all those were blood spots? A I didn't say blood spots, I said discoloration.

Q You mean every one of them that look now like rust marks were red discolorations at that time? A Yes, they had a reddish tint.

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Q Have you a note of that in your book? A I have not, because I didn't know what it really was. I had to go by information that I obtained at that time.

Q Didn't you take any description of the knife? A Yes, as to length and width, and marks, such as "N. & H. Company of New York", on the blade.

Q Of the things that were printed on the blade? A Yes.

Q But nothing about those temporary marks in your notes?

A No.

Q When did you say you got this wrapper (Indicating People's Exhibit 2 for identification)? A About five minutes after I came into the basement.

Q Who gave it to you? A James Manalias.

Q This fellow back here? A Yes.

Q You are sure he is the man that gave it to you? A Yes.

Q Where did he have it? A That I don't know.

Q Did he come across the room and hand it to you? A No, he said that was found ---

MR. CLARK: I object, and move to strike out what the witness said.

THE COURT: Strike it out, the jury will disregard it.

Q Did you make any note about this wrapper in your notes? A I did not, no, sir.

Q You made no note about that at all? A No, sir.

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Q And the only way you could tell who it was that went over there with you is to get somebody else now to tell you he was assigned to you on that night? A No.

Q How could you tell? A I know the man by sight. I said he is only a short time assigned to the Bureau.

BY THE COURT:

Q In other words, you know him by sight and would recognize him if you saw him but do not recall his name? A I do not recall his name. I will tell you how that is possible. When this alarm came at that time, being in the Homicide Squad, I was the first man out. In fact I had left the steps of the Second Branch Detective Bureau when this man came behind me, and I suppose he was assigned to give me assistance, and the reason I did not make any record of him being there was because I had officers of the Second Branch down there already when we arrived at the premises.

BY MR. CLARK:

Q Did you take any note of the officers in the premises? A No, because I knew their names.

Q You did not make any record? A No. I retained them in my mind. They were there before I got there.

BY JUROR NO. 7:

Q This grating that you and Murphy looked through, when you first saw the knife, in your opinion, what is the opening between the bars in that grating? A It is full 1-1/2 to 2 inches, I would say. About that much.

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FRANK J. SHEEHAN, (an officer of the 23rd Precinct) called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BROTHERS:

Q You are a member of the Police Force of the City of New York? A Yes, sir.

Q And have been for how long? A Six years and a half.

Q On September 20th, 1915, you were in what precinct? A 23rd Precinct.

Q Did you see the defendant that night? A Yes, sir.

Q Where was he when you first saw him? A In 37th street, about 75 feet or 100 feet west of Fifth avenue.

Q On which side of the street? A South side of the street.

Q Was he alone or in some one's company? A There were a number of men standing around him, there was quite a crowd; perhaps fifty.

Q Was there any officer there? A Yes, sir, two of them.

Q Who were they? A Officer Tetzner and Gillman.

Q Where did they go? A They immediately went towards Sixth avenue.

Q Did you go with them? A Yes, sir.

Q When you got to Sixth avenue, where did you go? A I went to the premises where this thing happened, 645 Sixth avenue.

Q There you saw some people? A Yes, sir.

Q Did you go anywhere else? A After standing about fifteen

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minutes down there I went searching for the knife. /

Q Did anyone go with you? A Yes, sir, Officer Gillman.

Q Did you see anything of the knife? A After searching for about an hour, some young man called my attention --

THE COURT: No, do not state that.

MR. CLARK: That is objected to.

BY THE COURT:

Q Just state what you did? A I went over to the northwest corner of 37th street and Sixth avenue, about fifteen feet west of Sixth avenue. I looked down through a grating and I saw a large sized knife lying there.

BY MR. BROTHERS:

Q Now, this knife that was there, what became of it? A I stood guard there over it while Officers Ryan and Tetzner tried to find some means of going inside where they could get the knife.

Q While you were watching it did you see somebody removing it? A Yes, sir.

Q Who removed it? A Well, there is a small shanty right over where the knife was lying, and it blocked my view from seeing of who it was that picked it up, but I could see the outstretched hand in the glare of the lamp.

Q From what place did this hand extend to get the knife?

A They were facing south.

BY THE COURT:

Q Where was the person who had the arm that got the knife?

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A Down underneath the grating, in the areaway.

BY MR. BROTHERS:

Q That is, a person reached in from the cellar, through the window? A Yes.

Q Did that person remove the object you had been watching, that large knife? A Yes.

Q Did you see the knife after they came upstairs? A I saw Mr. Murphy, he passed me with it, holding it by the end, in his hand.

Q Where did he go with it? A I don't know where he went with it. I dispersed the crowd then.

Q You remained on the street? A Yes.

Q While you were watching that object from the time you first saw it under the grating until you saw this hand reach from the cellar window and remove it, did anybody interfere with it in any way? A No, sir.

Q So this object, People's Exhibit 3 for identification, is about the same sized object you saw underneath the grating?

A Yes.

Q And the shape, as far as you can say? A Yes, sir.

Q You never handled the knife that night? A No.

MR. BROTHERS: That is all.

CROSS EXAMINATION BY MR. CLARK:

Q You saw the defendant first of all in the custody of Tetzner? A Yes.

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Q In this group around him were there some greeks? A Yes, sir.

Q What became of them? A They followed us towards Sixth avenue.

Q Then what happened? A Officer Tetzner and Gillman and I went downstairs.

Q And the Greeks went away? A They remained around the door.

Q Did you get their names? A No, sir.

Q Did anybody take their names? A No.

Q Did anybody pay any attention to these men who were following him and forming this crowd? A Not that I know of.

Q So nobody can tell us who those men were so far as you know? A No, sir.

BY THE COURT:

Q Did those men, or any of them, enter the basement after you entered then? A I didn't notice anyone, no, sir.

Q Did any of them go in before you entered it, or in front of you, immediately in front of you? A That I cannot say.

BY MR. CLARK:

Q So far as you are concerned, you don't know what became of those men that were surrounding the defendant when he was in the custody of Officer Tetzner? A No.

Q You say a young man spoke to you and then you went over to this grating and looked down and saw this gleaming object down below? A Yes.

BY THE COURT: Q Did that young man form one of that group you

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have been speaking about? A Yes, sir.

Q So far as you know, did he speak any English? A Yes, sir.

BY MR. CLARK:

Q Was he a Greek? A That I could not say.

Q Nothing indicated to you he was a Greek? A No, he spoke good English.

Q Taking People's Exhibit 1 in evidence, here is 37th street (indicating); you say you were first about 75 feet west of Fifth avenue when you got down, or they were? A They were, yes.

Q You joined them there? A Yes.

Q The group was right along here, about at this point that is marked with "60", just west of Fifth avenue, is that it?

A Yes, sir.

Q Then you walked back towards Sixth avenue? A Yes, sir.

Q And went directly to the basement of 645? A Yes, sir.

Q Then you went out, after you had gone down 645, did you?

A I went in several times.

Q After the first time you went out? A Yes.

Q Then you went down to the corner and saw this gleaming object? A Well, the flash light just lit up as I went out of the premises.

Q Where was the flash light? A On the north east corner of 37th street and Sixth avenue.

Q The northeast corner? A Yes. Officer Ryan was also on the way over, but he got there just a little ahead of me, and

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he answered it.

BY THE COURT:

Q Pardon me; is not that flash light on the southeast corner?

A No, sir, northeast corner.

BY MR. CLARK:

Q Then what did you do? A Ryan called to Officer Tetzner; he said --

Q Never mind that; what was said. A Well, while we were standing, the three of us at the box, this unknown citizen, unknown to me, he said --

Q Never mind what he said; what did you do?

BY THE COURT:

Q He spoke to you; after he spoke to you, what did you do?

A I went over.

BY MR. CLARK:

Q Indicate where you went; there is a trunk shop on the northwest corner of the street. A About 15 feet down the street, on the north side of 37th street from Sixth avenue --

Q Was it east or west of this rectangular shanty or object, which, I suppose, is the booth you were referring to? A It was east of it (indicating).

BY THE COURT:

Q In other words, between it and the Sixth avenue corner?

A Yes.

BY MR. CLARK: Q You say this object was in under this shanty

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so that you could not see it very well? A It was right about under the edge of the shanty, right below it (indicating perpendicular motion).

Q So that when the hand went in there you could not see the object? A I could.

Q You could not see whose hand it was? A I saw the hand and arm, but I don't know whose it was.

Q Did you have the flash light still? A What do you mean?

Q Didn't you first see it by the aid of an electric flash light? A I don't know whether it was a lamp, oil lamp or flash light. I know it was the glare of the light I could see.

Q You looked down there when you first went over there after the man spoke to you? A Yes.

Q And you saw something there? A Yes.

Q How did you see it, did you have a light? A Yes, I had the light.

Q What was your light? A Gas lamp, oil lamp.

Q You had an oil lamp in your hand? A Yes.

BY THE COURT:

Q Was it visible without the lamp, do you know? A That I could not say.

BY MR. CLARK:

Q You were not carrying the oil lamp with you; some one gave it to you? A This young man had a lamp while the officers were at the box.

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Q You looked down there? A I took the lamp.

Q So far as you know, you were the first officer to see it?

A No.

Q Do you know the name of that young man? A No.

Q Did you take his name? A No, sir. Mr. Murphy took his name.

Q You say Mr. Murphy took down his name, do you? A Yes, sir.

Q So that, you thought, relieved you from making any note of it? A Yes, sir.

Q What was this, an ordinary iron grating? A Yes, sir.

Q How wide were the spaces between the bars? A Perhaps an inch and a half.

Q Perhaps more or less; is that the best estimate? A About an inch and a half.

Q How long were these iron bars in the grating, how much of a space was it? A About four feet.

Q Four feet wide? A Yes.

Q How long; running from east to west? A From the shanty to Sixth avenue.

Q How much was the space that was covered by this iron grating? A About ten feet.

Q That is, ten feet east and west, you mean? A Yes.

Q How much north and south? A About four feet.

Q That is, about ten feet one way (indicating east and west) and about four feet from the building line out toward the sidewalk?

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A Yes, sir.

Q Did it have any cross braces? A Not that I noticed.

MR. CLARK: That is all.

STELLIOS PALAMAS, (342 East 43rd street) called as a witness on behalf of the People, being first duly sworn, testifies as follows: (Through the official interpreter, Mr. DeVille.)

DIRECT EXAMINATION BY MR. BROTHERS:

Q In what business are you? A A restaurant keeper.

THE COURT: (Addressing the witness) When you answer questions, speak up in your language good and loud so that the defendant may understand you.

Q Do you talk English? A (In English.) Not very well.

MR. BROTHERS: Does your Honor prefer I try i him in English?

THE COURT: Just as you like.

Q Let us see if we can get along in English.

(At this point the interpreter is dispensed with.)

Q You are in the restaurant business, are you? A Yes, I have a restaurant before.

Q Are you in business now? A Just I started having it Sunday.

THE COURT: You will have to raise your voice and talk so that the twelfth juryman may hear you easily.

Q Were you the proprietor of the restaurant at 645 Sixth

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avenue in this City on September 20th, 1915? A Yes, sir.

Q Have you a partner? A Yes, sir.

Q What is his name? A John Dermesses.

Q Was that restaurant in the basement? A Yes.

Q How long had you had it? A About three months and a half, like that.

Q Do you know the defendant here, Michael Savas? A I saw him the first time that night; the first time I saw him.

Q When was the first time you saw him? A That night he had the fight.

Q The night of the fight? A Yes.

Q The man who was called Nicholas Lialakus, did you know him before that night? A He is my best friend, my countryman.

Q You had known him how long? A I know him about since a small kid, like that.

Q Did he come into your place from time to time? A Yes.

Q Was he in your place on the night of September 20th when they had the fight? A Yes, he was about 7 o'clock, like that.

Q Will you tell the jury what happened in there that night.

THE COURT: Talk up good and loud, everybody wants to hear you.

A Well, Nicholas Lialakus come 7 o'clock down to my restaurant, he had a friend there, Angelos Sturkos.

THE COURT: If you do not understand him, Gentlemen of the jury, let me know, because we will have it the other way

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then.

A (Continuing.) Nicholas Lialakus 7 o'clock came down, sit down, and half past 9 or 10 o'clock, ten minutes to 10, like that, Michael Savas come.

Q Who is he? A He is down here (indicating defendant), there he is. He come, he take off his coat, he started dancing. Nicholas Lialakus pulled some glass down, and then he left the dancer and take a knife in the hand and give him, Nicholas Lialakus, cut him here (indicating left side of chest).

Q Who was dancing? A Mike Savas dance for the girl, for the music and girl.

Q What was her name? A Olympia.

Q How long were they dancing? A About ten or fifteen minutes, like that.

Q What was Lialakus doing while they were dancing? A Here, you know, he spill some glasses on the floor. I said to him, "You go quiet."

Q Did you speak to him? A Yes.

Q What did you say to him? A I said, "Don't do that like that, go quiet."

Q Did he break any dishes? A He spilled some dishes, some glass, like that.

Q Did you say anything to him about his going out if he could not stop breaking things? A I said, "If you go right, sit right, if you don't do right, I go and take you out."

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Q What did he say to that? A He didn't say nothing, he go the other side.

Q Was anything said about his money? A Yes, sir, sure.

Q What did he say about that? A He said to me he lost a pocketbook. I said to him, "I am very sorry, your business you lose your pocketbook. I am busy. I could not watch the people for the pocketbooks."

Q What was Lialakus doing when Savas stopped dancing and came over toward him? A Nicholas Lialakus he spilled some glasses on the floor. Nicholas Lialakus he don't bother Mike Savas.
BY THE COURT:

Q Was Savas in your place that night as a customer of yours or as a waiter working for you? A I don't understand that.

(The question is again put to the witness through the interpreter.)

A (Through the interpreter.) No, he was neither customer nor employee. It was the first time I saw him in the place.

Q But he was not there as an employee? A (Through the interpreter.) No.

Q And so far as you know, he had not bought anything that night in your restaurant, is that so? A (Through the interpreter.) No.

(At this point the witness answers in English. again.)

BY MR. BROTHERS: Q Had you seen Savas sitting at any table?

A He was sitting down on the chair and take off his coat and

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started dance.

Q On what side of the room had he done that? A This corner; on this hand (indicating left side).

Q How far was that place, that table, from where Lialakus sat? A This time he was at the table. Nicholas Lialakus had his table here (indicating left), and Mike Savas in the court down here (indicating out into the court room to the left).

Q Walk down and point out. A Three feet. (Witness swings his foot out to indicate a step.)

Q About three feet away? A Like that.

Q Was anybody sitting there? A Yes.

Q When Savas was dancing was there anybody sitting at his table? A Yes.

Q Who was that? A His friend, I don't know his friend.

BY THE COURT:

Q When Savas came into the restaurant that night did you see him as he was in the act of entering the door of the restaurant, did you see him coming in? A (Through the interpreter.) Yes.

Q Did he come in alone or with anyone? A (Through the interpreter.) When I first saw Mike Savas after he entered the place, he sat down near some one else, but I don't know whether that some one else was a friend of his, or he was acquainted with him.

Q So you did not see him come in the door? A (Through the

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interpreter.) No, I only saw him when he sat down.

BY MR. BROTHERS:

Q Well, now, when Lialakus was throwing the glasses around, did he throw any over toward the table that Savas was at?

A Just he spilled one glass on the table.

Q Did that glass go over on Savas's table? A Yes, sir.

Q Was Savas at the table at that time? A This time, Savas was dancing then.

Q Did you say he was sitting at the table next to the Savas table? A I saw men sitting at the table, but I didn't know him.

Q How far away from Lialakus were you when Savas stabbed him with the knife? A Just like the mister here (indicating court officer about ten feet away).

MR. CLARK: I should call that about ten feet away.

A (Continuing.) Just like here.

Q Tell me when I am as far away from you as you were from Lialakus. I will walk back and tell me when to stop. (Mr. Brothers steps backward.) A I am here and Lialakus here (indicating about five feet), Mike gone for the knife, gave him the knife and took his coat and went.

Q Then you were closer than the court officer, Mr. Walsh, is to you; were you as close as you and I are to Lialakus when he was cut (indicating about five feet away)? A (Through the interpreter.) This is the distance between Lialakus and myself when he was stabbed.

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MR. BROTHERS: Indicating about six feet, isn't that so?

MR. CLARK: Yes.

Q Did you see where Savas got the knife that he used? A Yes.

Q Where did he get it? A I saw the knife in his hands.

Q How did he hold it? A Like that (indicating holding knife in right hand with blade protruding from back of hand), and he gave it here to the man (indicating left side of chest).

Q How far away from Lialakus was Savas when you first saw the knife? A Just like that, the same (indicating about six feet).

Q About six feet? A Yes.

Q Where did he get his coat and hat from after he stabbed this man? A About ten feet.

Q Where was it hanging, up on the wall or where? A On the table. I saw his coat in his hand, but I don't know if he took it from the floor or from the table. I saw it in his hand.

Q Where did he go? A He takes the coat and goes out.

Q To the street? A Yes.

Q Did you see him any more that night? A I saw him go out and never saw him after.

Q Where did you go? A I go out.

Q You didn't stay there? A I didn't stay, I am afraid.

BY THE COURT:

Q How soon after he left, referring to Savas, did you leave?
A (Through the interpreter.) I left half an hour later, after

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after everybody else had gone out.

BY MR. BROTHERS:

Q Were you there when the policemen came with the defendant under arrest? A When the police came down I was out.

Q Where did you go? A I go right home.

Q Where did you live at that time? A I lived 43 East 43rd street, East, 342. I am afraid. I didn't know what happened. I never saw like that a fight.

Q Before you went out did you see what was the matter with Lialakus; did you see where he was? A Yes, he was in the corner table.

Q Was he sitting up or lying down? A This time I go out, I left him Manalias was holding him.

Q You were firghtened, were you?

MR. CLARK: I object to that as leading, trying to give an explanation of his running away.

THE COURT: Objection sustained.

Q Were you frightened? A (Through the interpreter.) Yes, I got frightened and I went out.

Q And have you been in business at that place since then?

A (Through the interpreter.) No, the store closed itself.

MR. BROTHERS: That is all.

CROSS EXAMINATION BY MR. CLARK:

Q How is it that the store closed itself; didn't you dare

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go back? A (Through the interpreter.) No, I was not afraid of going back, but after such an occurrence took place in that store I would not go back and open it again.

Q Weren't you afraid the police were going to get after you for telling liquor without a license? A I don't sell liquor.

Q You didn't sell liquor there? A No.

Q What did you sell? A Soft drinks.

Q You saw this man Lialakus was a childhood friend of yours?

A Yes, sir.

Q And you went out the door and left his dead body alone in your restaurant that night, did you? A Yes.

Q Before the police came? A The police was down and I was out.

Q You left before the police came, didn't you? A Yes.

Q How long do you think you stayed there after Mike Savas left; you saw Mike Savas go out? A Yes, he was out.

Q Why didn't you stop him; didn't you see he had just killed one of your best friends? A Yes, sir.

Q Why didn't you stop him before he went out? A I am afraid, he had a knife in his hand.

Q When he went out of your place? A He was out with the knife.

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Q He had a coat in the other hand? A He takes the coat. Maybe he threw it out after, and then take his coat.

Q The coat in one hand? A Yes.

Q And he had the knife in the other hand? A Yes.

Q And he walked out and no one touched him? A He go out.

Q He walked up the steps did he? A He walked up the steps, did he? A He go out and I stayed inside. People go out after.

Q The other people went out? A Yes.

Q And you stayed behind when he went out? A Yes, sir.

Q You did not chase him? A I did not chase him, he go out.

Q When he went out, when you last saw him leave your place, he had the knife in one hand, and his coat and hat in the other? A I did not see the hat. He takes the coat like that. (Witness illustrates by extending his left arm) and the knife and went out.

Q Now, there are doors in that stairway, or were? A Yes.

Q He had to open the doors, didn't he? A The door was open.

Q The doors were open; they were not closed when he started up the stairs? A He goes out, the doors open. I saw him go out of the door.

Q Were the doors closed or open when you left? A This time everybody go up.

Q People had gone up before him? A He was out first.

Q He was the first one out? A Yes.

Q Nobody went out before him? A He was out; after the people go out.

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Q were the doors open or not when Savas went upstairs?

(Question put through the Interpreter)

A (Through Interpreter) The door was shut.

Q How did he get through the doors? A Well, I saw him go through the door and go out.

Q well, did he go through the door? A The door was half shut and he went through and went upstairs.

Q didn't he have to move it forward or backwards to get through? A He went just like this to the door and went out.

Q Well, let us have an illustration. (Illustrating by holding the two diagrams in the position of doors). Here is the doorway: how did he go through? were they shut like this (indicating)? A Well, more open than this.

Q Like that? (Illustrating by putting the two diagrams in the position of doors that are partly ajar)? A More, like that (indicating about 45 degrees swing).

Q These doors were swinging doors, they opened like this enclosed? A No.

Q How did you work them? A Just one, not two.

Q There is only one door? A Yes, sir.

Q so there is one door? A Yes.

Q And that door was partly ajar (indicating)? A Half closed, half open.

Q Wasn't that door closed tight that night, wasn't it shut when this thing happened? A Well, it was not shut, it was half

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open. The body of a man could go through the space.

Q Was it a swinging door, did it go both ways? A One side only.

Q It opened into your place? A Inside, yes.

Q And he did not have to touch the door at all to get out?

A The door was open and he went out.

Q You are not as stupid as that. Tell us how that door was.

MR. BROTHERS: We object to that. We will prove how the door got open and he walked through, as I think we are wasting a lot of time.

THE COURT: If the witness knows he may tell us.

Q Here is the gate to the jury box. Let us use that gate. This is inside, the place here. A This time Mike Savas got through, the door was closed, like that (indicating slightly ajar). Here is the knife in his hand (indicating right hand). (Answer continued through Interpreter) Some one attempted to shut the door, the defendant lifted the knife in his hand and made an attempt to strike the individual, and that party opened the door and left it ajar for the defendant to go out.

Q So when he went up the steps, and you saw him last he had the knife in one hand and his coat in the other hand, is that right? A He took his coat and go right away outside, knife in this hand (indicating right hand), and coat like that (indicating on left arm), and go out.

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Q Had any one gone out before him? A I saw him, after I saw everybody go out, I saw him.

Q He was still there after all the others had gone out? A No, he go first out.

Q He went out first? A Yes, the People after him. They wanted to catch him.

Q The People went out after him to catch him? A Yes.

Q You didn't go? A No, I didn't go, I was out. I telephoned for --

Q For an ambulance? A (Through Interpreter) I went to telephone for the ambulance.

Q Where did you go? A (Through the Interpreter) To the drug store opposite.

Q And you never came back? A No, I am afraid. It is forty-six years I never saw anything like that. I never saw court. I was afraid.

Q Didn't you sell beer in that place? A If you pay me I buy a pint outside.

Q You did sell beer there that night? A No.

Q You didn't sell any beer there that night? A If you give me a nickel I bring a pint.

Q You did sell some beer that night in that way, didn't you? A Coffee and soda, that is all.

Q Did you sell any beer to anybody there that night; don't you know whether you did or not? A I don't sell beer. I have

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soda and coffee, soft drinks.

Q But you sent out and got anything anybody wanted? A One pint of beer four hours, from six o'clock ten cents beer, from one o'clock till ten o'clock.

Q You say your friend threw his glass up in the air or dropped it? A He threw down the glass.

Q Was that intended as an insult to you? A Not beer glasses, water glasses, saucers and cups.

Q Was he drunk? A Lialakus is drunk, I don't know.

Q He had something to drink, hadn't he? A He was down and asked me for coffee. I gave coffee.

Q Didn't he have anything else to drink in your place that night? A Coffee, that is all I gave, coffee and soda.

Q That is all you did when he began throwing dishes around? A Throwing dishes.

Q Is that the way he behaved himself regularly when he came around to see you? A I gave coffee and soda, that is all.

Q He came there that night at seven o'clock? A Yes.

Q And stayed there until this happened? A About half past nine the trouble was.

Q He had nothing except some coffee? A Coffee and some soda.

Q Anything with the soda? A Soda, that is all.

Q Didn't he have some whiskey? A No.

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

Q What else did he have to drink? A I told you, he had

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soda and coffee, soft drinks.

Q What soft drinks had he been drinking? A Cake and pie.

Q You are not being tried for selling liquor here; we want the facts. What was this man drinking in your place that night?
A I told you.

Q What? A He comes and asks me for coffee. I gave coffee.

Q So, after sitting there for two and a half hours, drinking coffee and eating cake and pie, he shows his appreciation by throwing the glasses and coffee cups and saucers on the floor, is that it? A Yes.

Q Who was this girl Olympia? A For the musicians, for the music.

Q Did she play? A Yes.

Q What does she play? A She danced for him, for Mike, you know.

Q Why did you hire her; you did not know Mike was coming?
A Savas comes in, Olympia said, "Youse can dance." savas got up, he said "Come on, dance."

Q Was that what she was there for? A Yes.

Q You had her there to dance with your customers or patrons?
A Yes, and no. The orchestra was there and accompany her when she sang.

Q How long had she been with you? A About a month.

Q It was very well known among the Greeks that she was there, wasn't it? A The Greeks know her. (Answer continued through the Interpreter) Those musicians do not remain in the same

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place all the time. They go about.

Q I am talking now about Olympia? A Certainly. (Through Interpreter) It had been rumored about that she was there.

Q You had hired her for an attraction for customers to come and hear her and dance with her? A (Through Interpreter) Well, to make it more attractive, to sell my coffee.

Q So when Savas came in there and asked her to dance he was doing exactly what you intended that your customers should do, wasn't he? A (Through Interpreter) Well, the music end of it was no concern of mine. I was paying the musicians as an attraction. I gave them four dollars a night.

Q A piece? A No.

Q For all four? A Yes.

Q And then they picked up loose change on the side when your patrons showered money on them? A (Through Interpreter) Yes, sir.

Q Did your friend Lilakus throw some money after he got through throwing dishes? A Yes.

Q What was that for? A I don't know. I saw nickels and pennies on the floor.

Q And yet at the same time he was complaining that his pocket book had been stolen? A I don't know; this time he told me he lost pocket book.

Q In your place? A Yes.

Q That is what started this discussion with you? A I told him I am very sorry, "You are business man, you lose pocket book",

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that is all.

Q Didn't you go over to him and take hold of him like this, and shake his head (indicating by putting one hand on chin and one hand on head)? A No, I said to him to keep quiet.

Q Did you grab him like this (indicating) and shake his head?
A No.

Q What did you do? A Just asked him to be quiet. Here is the hand like that he put up. (Indicating by extending his hand).

Q He put up his hand? A Yes.

Q You never took hold of him and shook his head? A No, I spoke to him and his friend gterkos say to me, "Leave that, this is not nice".

Q This discussion annoyed him? A I wanted to make him quiet.

Q But if it is testified here that you went to him and shook him, that is not so?

MR. BROTHERS: Objected to.

THE COURT: Objection sustained.

Q Didn't you ask him to leave your place? A Yes, sir.

Q Did he? A Yes, sir.

Q How far did he go?

MR. CLARK: I don't think he understood the question.

Q (Repeated through the Interpreter) A (Through Interpreter) I told him to remain quiet, and if he did not do so, he should leave the place.

Q Did he remain quiet? A (Through Interpreter) At that

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moment when I warned him, his friend got up and took hold of him and then I went about my business.

Q Where did you go? A I went a little further away.

Q Which direction? A Towards the rear.

Q What was Mike doing then?

THE COURT: I think I will have to ask you to suspend the further examination until tomorrow. Gentlemen of the Jury, you are admonished not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon until the same until the same has been submitted to you. The court stands adjourned until tomorrow at half past ten.

(The Court takes a recess until Wednesday morning,
January 12th, 1916, at 10:30 a. m.)

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THE PEOPLE vs. MICHAEL SAVAS.

New York, January 12th, 1916.

MR. BROTHERS: My witness has not arrived as yet,
and I will put some one else on in order to save time.

THE COURT: There is no objection to that, I take it?

MR. CLARK: No.

JOHN DERMISSES (Nashua, New Hampshire), called as
a witness on behalf of the People, being first duly sworn,
testified as follows: (Sworn and examined through Official
Interpreter DeVille)

DIRECT EXAMINATION BY MR. BROTHERS:

Q Where do you live? A I live at 45 Centre street, Nashua,
New Hampshire.

Q How long have you lived in New Hampshire? A About a month
and a half.

Q Before that you lived in New York City, did you? A Yes.

Q Were you in partnership with Palamas in a restaurant in
the basement of 645 Sixth avenue, in this city? A Yes, sir.

Q How long have you and he been in business? A Four months.

Q Were you in a restaurant on the night of September 20th,
1915, when Lialakus was killed? A Yes, sir.

Q Did you see him stabbed? A I did not see the actual
stabbing, I was in the kitchen at the time, but I saw the de-
fendant with the knife in his hand.

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MR. CLARK: I move to strike that out on the ground it is not responsive to the question.

THE COURT: I will leave in, "I did not see the actual stabbing", but I will strike out the balance.

Q The kitchen is at the back of the restaurant, is it?

A Yes, sir.

Q What did you do in the kitchen, what was your work? A I was doing the cooking.

Q Did you have any one in the kitchen that night to assist you? A That evening I was alone; all the help had gone home.

Q And from where you were in the kitchen could you see into the restaurant? A Yes, through the opening or door. The opening through which we passed the food and other things.

Q Will you look at People's Exhibit 4 and see if you can tell upon that plan where the window is? A The window is right here somewhere (indicating about at place marked "Shelf").

Q Is there a door through which you can walk? A Yes, sir.

Q And the place that you pass the dishes out, is that the door, or is that another place? A That is a different spot.

Q Is that the place you marked (indicating at the shelf)? A It is right in the centre, but I can't tell you exactly where it is.

Q Is there a shelf there where you put the dishes on? A Yes, there is a wooden shelf upon which repose the plates.

A How many openings are there from the kitchen into the restaurant? A Only one; the door and that opening I mentioned

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about a moment ago.

Q That makes two --

MR. CLARK: He said only one.

BY THE COURT:

Q Well, there is a door, is there? Yes or no? A Yes, sir.

Q And besides the door there is an opening through which were passed dishes, is that so? A Yes, sir.

BY MR. BROTHERS:

Q Is there any other opening? A There is a third opening which had been in use by the previous owners of the restaurant, and which we have shut off with a curtain. It was not in use then.

Q Where was that place that you closed off with a curtain?

A Next to the door permitting exit and entry into the kitchen and from the kitchen.

Q Did you see from the kitchen anything of a disturbance in the restaurant before Lialakus was stabbed? A I did. I saw the deceased break either one or two glasses, and I saw my partner approach the deceased and talk to him.

THE COURT: Why not let him tell us what he saw?

Q Go right along, tell all that you saw and all that you did? A I saw and heard my partner talk and reprimand the deceased.

MR. CLARK: May we allow the defendant to come in near enough so that he can hear this whispered conversation?

THE COURT: I shall be very glad to have him

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do so. He may sit right next to the stenographer.

(Whereupon the defendant takes a position next to the stenographer's desk.)

Q Go right ahead. A As I told you, my partner went and told the deceased not to continue breaking glasses. I then turned my eyes towards something inside the kitchen, and I heard a turmoil outside, and by the time I looked out again the deceased had been already stabbed. I realized that the trouble was more serious than I at first thought. I jumped out of the kitchen, and I then saw defendant with his coat or jacket on one arm and a large knife in the other.

MR. CLARK: I move to strike out all that he realized.

THE COURT: I will strike out the expression that he realized that the trouble was more serious; the balance stands.

A (Continued) I ran towards the door and defendant, when I was about to close the door said to me, "Oh, you be generous", or "Oh, you bugger", is the nearest expression to it, "How dare you attempt to close the door?" He lifted the knife as if to strike me and I pulled the door open and hid behind the door. He ran out and several others ran after him and I followed the others. When I stepped on to the sidewalk I saw him near the corner of 37th street and turning into 37th street. He turned towards Broadway. I turned around, looking for a police officer. I did not see any, and I stepped back into the store, down in the basement. I saw men attending the wounded man and I jumped

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back into the avenue, and I then saw this defendant running in an opposite direction, crossing the avenue towards Fifth avenue. When I tried to get back into my store the doors had been shut and they were guarded by police officers, so I did not go down.

Q Now, will you tell the jury where the deceased was sitting at the time that you saw him break some glasses? A On the middle table, inside the rail.

Q Will you tell us whether you had noticed the defendant in the restaurant before the fight began? A No; that was the first night I saw him.

Q I mean the same night? A I had seen him when he came in and sat down and ordered a cup of coffee.

BY THE COURT:

Q Did he come in alone or accompanied by anybody? A Two together.

Q Do you know the name of the other man? A No, he was also a new arrival into the premises.

Q Did you see the defendant as he was in the act of coming to the door leading into the restaurant from the street ?

A I did not.

Q When you first saw the defendant in the restaurant, whereabouts was he? A I saw the defendant sitting at the table against the wall opposite the table at which the deceased was sitting.

Q Was the defendant sitting there at that time alone, or were there others at the table? A Two together.

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Q Is that why you say the defendant came in with some one?

A That is the reason, and because the order was given for two cups, and they were served simultaneously.

Q Did you see them served to the defendant? A Yes, I sent them from the kitchen.

Q And that was about how long before the deceased broke the glass? A A few minutes; I am not exactly -- five or ten minutes at best.

Q Did you see the deceased that night when he came into the restaurant? A No, I found the deceased in the restaurant when I arrived there that evening.

Q You arrived at what time? A Between half past eight and a quarter to nine.

Q Now, did you observe anyone dancing in the restaurant about the time that you have described? A The defendant with the performer.

Q What was her name? A Olympia.

Q Did you notice when the defendant was dancing whether he had his coat on or off? A Off.

Q When he came to the front door to go to the street, did you observe whether or not he had any coat at that time? A He had the coat over one shoulder, and he held the knife with the other hand, that is how he went out.

Q Describe how he held the coat; show it. A I must take my coat off to show you. (Witness takes off his overcoat, and illustrates by putting the left arm through the left sleeve,

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and the coat hanging over the left shoulder, and his right arm raised above his head.

Q Did you say you went out into the street after him? A Yes.

Q How far down Sixth avenue did you go, yourself? A As far as the corner of 37th street and back again.

Q When you got to the corner of 37th street did you at that time see the defendant? A I saw him near the middle of the block, between Broadway and Sixth avenue.

THE COURT: Mr. Brothers, if it is agreeable to you, I suggest that you show the witness the knife, People's Exhibit 3 for identification.

(The Interpreter hands the knife, People's Exhibit 3 for identification to the witness.)

BY THE COURT:

Q Just look at People's Exhibit 3 for identification and tell me -- A This is the blade I saw on the knife that the defendant held in his hand.

Q Let me ask you, is that the kind of a knife that is used in the business there, in the restaurant? A No, sir, never.

Q On December 20th, did you use a knife of that kind in the restaurant business there? A No.

BY MR. BROTHERS:

Q What was the defendant doing on 37th street when you say you saw him from the corner; was he walking or standing still?

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A He was running in the direction of Broadway.

Q When you saw him from the corner what was he doing? A still running.

Q Did you stay there on the corner? A No, I turned around and looked for an officer. I was looking for an officer.

Q Did you see the defendant on the street again that night?
A I saw him again when he was running in the direction of Fifth avenue.

Q But, at the time you saw him going towards Fifth avenue, whereabouts in the street was he? A I saw him just beyond Tsapalides restaurant, and that restaurant is at the southeast corner of Sixth avenue and 37th street.

Q Was he crossing Sixth avenue, is that what you mean?
A He had already crossed Sixth avenue.

Q Is that restaurant you talk about on the corner, or does it face on 37th street? A Well, it faces both Sixth avenue and 37th street, right on the corner.

Q Now, at that time that you saw him by that restaurant going towards Fifth avenue, where were you? A I was near the northeastern corner of Sixth avenue and 37th street. I still had my white working jacket on.

Q Were you on the same side of Sixth avenue as your restaurant or on the other side? A The opposite side, opposite the electric store.

MR. BROTHERS: That is all.

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CROSS EXAMINATION BY MR. KELLY:

Q Where did you live on September 20th, 1915? A 301 West 39th street.

Q You say you started in to work there that night about 8:30, is that right? A Yes, between half past eight and nine, somewhere.

Q When you came into the restaurant that night between 8:30 and 9 o'clock, how many people were there in the restaurant?

A I can't tell you exactly how many there were there, but between fifteen and twenty.

Q Now, between that time and you came in and the time that the defendant came into the restaurant how many people came in?

A I could not tell you.

BY THE COURT:

Q About how many? A Well, two would come in and three would go out, and the next minute three would come in and two would go out; I could not tell you how many.

BY MR. KELLY:

Q But you didn't take any particular notice of these people coming in between the time you arrived there and the time the defendant arrived there? A No.

BY THE COURT:

Q What was the first thing that you did when you arrived?

A I went into the kitchen, took my coat off and put a white jacket on and started to work.

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Q And did you work continuously that night in the kitchen?

A yes; I had no assistants and I had to remain in there.

Q Not coming out into the restaurant? A No.

BY MR. KELLEY:

Q Can you describe the looks of anybody that came into that restaurant from the time that you arrived there up to the time that the defendant arrived? A I did notice one party that came in, I remember, because I knew one or two of the parties, Mr. Economo and Franc came in, in between.

Q You knew those people, however, did you? A Yes, sir, one of them is a friend of mine.

Q Were those the only two you noticed especially coming in? A Others came in, but I can't recollect who they were.

Q Economo was a friend of yours, was he? A Yes.

Q And a friend of your partner's? A Yes; he was a good customer also.

Q And he had gone into your place there very often, hadn't he? A Once a fortnight, about. He has his own store to attend to, and he used to visit there periodically.

Q Manolias, was he an old friend too? A He was once employed in that restaurant, and occasionally he would visit us afterwards.

Q Did you see him come into the restaurant? A He was down there. I did not see him come in, but I noticed him in the premises.

Q What is Manolias's business, do you know? A He is a

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photographer and he plays an instrument, clarionet.

Q And he worked in your place at that time? A Some months or so before he worked one week in that place.

Q He calls himself an artist, doesn't he? A I don't know about that.

Q Now, when you went into the kitchen at half past eight that night, your other employees left the place, did they, and went home and left you alone in the kitchen? A Yes.

BY THE COURT:

Q Did you and your partner at that time employ any waiters, or waitresses? A Only a waitress, and my partner also assisted in serving table.

BY MR. KELLY:

Q So that you were left alone in the kitchen at half past eight? A Yes.

Q You say two or three people would come in and go out again and people kept coming in and out all the time, up to the time this defendant came into the place, is that right? A I assume two would come in and two would go out, because there were always about the same number of people.

Q And those people that were coming in and out were ordering something to eat and drink, weren't they? A Yes, a little food or soda, or something.

Q And you were the only one that was left to serve them there in the back room? A Yes, sir.

BY THE COURT: Q Was the waitress there that evening? A yes, sir

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Q What is her name? A Sophia.

Q Did she stay after you came, or did she leave? A No, sir, she was there after I arrived, and she went away only after the occurrence.

BY MR. KELLY:

Q At what time did you see this defendant came into your restaurant? A It might have been between half past nine and a quarter of ten, but I am not sure about that.

Q But you saw him come in, did you? A I saw him sitting there when he ordered his drink.

Q What did he order? A Two coffees, - I mean two cups.

Q Didn't he order a glass of beer, as a matter of fact?
A No.

Q Did you sell beer there? A No.

Q Never sold any beer there, or any intoxicants at all? A No, unless somebody wanted to drink with his crust of bread, and then I would send out to the saloon and get it.

Q Who would go out to the saloon and get it? A The kitchen hand.

Q Well, you had no kitchen hand there except yourself that night, did you? A There were no drinks at that time. If there was any one desiring to drink beer I would have to go out and get it myself.

Q But you are sure this defendant ordered coffee, are you?

A Yes, sir.

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Q Was there no one in the place had any drinks there that night from the time you arrived?

THE COURT: You mean any spirituous liquors?

Q I mean spirituous liquors. A I can't remember, but I didn't serve anything myself from inside the kitchen.

Q Who was it took the order to the defendant from that little window? A What order?

Q The two cups of coffee? A The waitress.

Q You are sure it was not your partner? A Well, I saw the waitress take the coffee away. I can't remember who ordered them or anything.

Q So, as a matter of fact, you don't know whether the coffee that was ordered at that time was for this defendant, or for some one else, do you? A The only think I know is I saw the waitress take two coffees and bring them to the table at which defendant was sitting.

Q Did you see anybody serve anything to Manolias? A I could not tell you, I was inside of the kitchen. I saw something served to him, but I could not tell what it was.

Q But you remember distinctly what was served to this defendant, do you? A Yes, sir.

Q Now, when this defendant was served with the coffee, was he at the table? A Yes, he was sitting at the table. Later on he got up and started to dance.

Q When he came into your restaurant did he have his coat on

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or his coat off? A I did not see him when he came down the stairs.

BY THE COURT:

Q When he was sitting there at the table did he have his coat on or off? A Sitting down at the table he had his coat on. He only took it off when he started dancing.

Q Did you see him in the act of taking it off? A I only saw him without his coat on.

BY MR. KELLY:

Q Then, at about a quarter of ten or around that time you saw the dead man Lialakus and your partner in some sort of an argument, is that right? A Yes, I did. I saw my partner go up to him and remonstrate.

Q What had he done before that to cause your partner to go over and remonstrate? A He had broken one or two glasses.

Q Did you see him throw the glass up in the air? A No, I saw the noise from the kitchen (meaning I heard the noise).

Q You didn't see him throw any glasses or break any glasses at all; all you heard was the noise, is that right? A Heard the noise as if one or two or three glasses were being broken, and then I looked.

Q To take a glass and throw it up in the air and let it fall on the ground is an insult in Greece, isn't it, to the place in which you are seated at the time? A That I could not tell you; I do not know whether it is an insult. There are some

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who might take it for an insult, and misconstrue it, others not.

BY THE COURT:

Q Now, having heard the noise of breaking glass, how soon after did you look out after that, into the restaurant? A The very moment. The opening was just in my line of view and I turned around and looked.

Q And by the opening what do you mean? A The little window through which I was passing the dishes and the glasses.

Q And as you looked at that moment, what did you see in the restaurant? A I saw my partner telling the defendant and remonstrating to him and telling him not to break glasses.

Q You saw your partner and who else? You said defendant. I may have misunderstood you. Who did you say? A I saw my

partner talking to deceased.

Q Was your partner talking or sitting? A Standing.

Q Was the deceased standing or sitting? A He was sitting on a chair.

Q About how far apart were they at that moment, referring to your partner and deceased? A The distance between the witness and interpreter, about eighteen inches; and the words used by my partner were "Please don't break the glasses any more."

Q Did you hear the deceased say anything? A No, I did not.

Q At that moment did you see the defendant? A He was still dancing at that moment.

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THE COURT: You may proceed, Mr. Kelly.

BY MR. KELLY:

Q This deceased and your partner were up here, near this railing, weren't they (indicating railing on diagram, People's Exhibit 4 in evidence)? A Around about that position (indicating first table in centre row of tables.); here was deceased, there was deceased sitting down at the table, and here was my partner talking to him (indicating slight to right of table).

Q And you were back here in the kitchen? (Indicating)

A I could not locate the opening, but that little window is somewhere about here (indicating near place marked "Shelf").

Q That is twenty-one feet from this railing to the partition, isn't that right? A I didn't measure it, and I could not tell you.

BY THE COURT:

Q Were there any other persons seated at that moment at the table with the deceased? A A man named Sturkos, who was a witness in this case, and another young man, whose name I don't know.

BY MR. KELLY:

Q You heard the conversation between the deceased and your partner, and you heard your partner say, "Please don't break any more glasses, is that right? A Yes, he said, "Do me the favor". He did not say "please".

THE INTERPRETER: I used the word "please".

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A (Continued) He said "Do me the favor."

Q What did the deceased say to your partner then? A I did not hear because I had a coffee pot on the fire at the time.

Q At that time you stepped away to attend to something on the fire, is that right? A I turned around to look at the coffee which was being made to order.

Q When you heard your partner say "Please do me the favor" and not break any more glasses", the music was playing up here (indicating on platform), and right next to that place you were, and defendant was dancing out here, wasn't he? (Indicating near platform)? A Yes, sir, that is correct.

Q Did you see your partner put his hands on the deceased?

A No, I did not.

Q Did he put his hands in that way, on his shoulder, (indicating)? A No, I did not see him do it.

Q Did you see him take him by the head and shake his head like that? (Indicating) A I did not see him do that either.

Q When he spoke to him and asked him to do him the favor to not break any more glasses, he stood about the distance that you are away from the interpreter, Mr. DeVille? A Exactly about the same position and in the same manner that the Interpreter holds his hands. (At the moment the Interpreter has his hands behind his back.) And said, "Do me the favor and don't break any more glasses."

Q That was your partner that had his hands behind his back?

A Yes, in the same manner the interpreter holds them now.

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(Behind his back).

Q Did he have anything in his hand at the time? A No, he only had a pencil in his ear.

Q Did you see his hands behind his back? A Naturally, he was almost turning his back to me and I saw that, in the same manner that the interpreter holds his hands.

Q He had his back to the place where you were standing, is that right? A Yes, he was talking to him in this manner (indicating by holding his hands behind his back.)

Q But he was facing the deceased, was he, Lialakus? A He was on the side of the deceased, and he was telling him to "Do me the favor and not break any more glasses.?"

Q Where was the deceased sitting at the table? A Here at the table he was sitting (indicating the first table in the centre row), behind the rail. It was a little nearer there (indicating nearer to railing). In this direction there was the deceased (indicating at first table of centre row), and there was my partner standing with his hands behind his back (indicating near table. Here was Sturkos, here was the third young man (indicating).

Q Here was the deceased, Lialakus (indicating at first table of centre row in front of table)?

THE COURT: Let the witness make a mark.

BY THE COURT:

Q You make a mark there where the deceased was sitting.

A (Witness makes a pencil mark) There is where the deceased

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was sitting down.

THE COURT: Suppose we put No. 1 there.

(Point is marked No. 1 on the diagram, People's Exhibit 4.)

A (Continued) Here is where my partner stood.

Q Make another mark. A (Witness marks No. 2 at point indicated).

Q And where was Sturkos? A No. 3 is the position occupied by Sturkos, around there, and No. 4 is the position occupied by the other young man.

BY MR. KELLY:

Q Just after that conversation, then, you were called to the back to attend to this special coffee that was being made, is that right? A Yes.

Q And when you came to the window again, something had happened, is that right? A Yes.

Q And where was the defendant, this man (indicating defendant) at that time, when you came back to the window? A I immediately jumped out, went toward the door, with the intent of calling a policeman.

MR. KELLY: I move to strike out his intent.

THE COURT: strike it out, the jury will disregard it.

BY THE COURT:

Q When you looked out of the window into the restaurant the second time, where was the defendant? A When I saw the

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turmoil I did not look at any one.

Q That is to say, you passed out of the door leading from the kitchen into the restaurant, is that so? A Yes, sir.

Q As you passed out of that door what did you do? A I saw the crowd mixed up.

Q Whereabouts? A Inside the store.

Q Whereabouts in the store? A All over.

BY MR. KELLY:

Q Everybody was in a big commotion there at the time, is that right? A Yes, topsy-turvy.

BY THE COURT:

Q Did you see the defendant at that moment? Yes or no?

A I saw him at the door with his coat and the knife.

BY MR. KELLY:

Q As you stepped out of the door back here from the kitchen you saw him up at this door, is that what you say (indicating basement entrance door)? A When I got out of the door I saw them all in a mix up. I proceeded through the door, and when I got near the door then I saw the defendant with his coat and knife in his hand.

BY THE COURT:

Q When you say you proceeded to the door, what door do you mean? A The door leading out into the street.

Q So that I understand that you did not see the defendant during your progress through the restaurant from the door which

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leads from the kitchen into the restaurant, until you got near the door leading from the restaurant into the street, is that so? A. That is correct.

BY MR. KELLY:

Q And you saw him at that time with his left arm in the coat and his right hand holding the knife, is that right? A Yes, sir, as I described it before.

BY THE COURT:

Q How much time passed, as well as you can estimate it, from the moment when you heard your partner speak to the deceased, after you heard the noise of the breaking of glasses, to the moment when you passed out of the door from the kitchen into the restaurant? A About two, three or four minutes, more or less.

BY MR. KELLY:

Q When you came out of the kitchen did you see your partner in the place? A I saw him some where in the store, in the midst of the crowd.

Q Where was the dead man Lialakus at that time? A Where he was sitting, inside the rail.

Q You are sure that he was inside the rail, is that right? A Yes, sir, I saw him inside the rail at that moment, and when I came back the second time after I had stepped out and back again, then I saw him outside the rail, lying on the floor. The second time I saw him held and supported by Sturkos.

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Q Did you see him leave the place before the defendant here? A I did not.

Q How many people went out behind him? A I could not tell you; twenty, twenty-five, all of them went out.

Q Did he have a hat with him when he went out? A I can't remember that.

Q You did not see a hat in his hand? A I was a little excited; I could not think of it.

Q But you do remember that night very well? A I remember about the night because I was almost struck myself.

Q And from seeing that knife once in the defendant's hand, holding it there, you now recognize this blade, is that right?

THE COURT: I may say he has not identified it as yet. You may interrogate him in regard to it, if you see fit.

Q After this defendant and the twenty or twenty-five people ran upstairs, you went up yourself, did you? A Yes, sir, I went out for a policeman.

Q Where did you look for the policeman? A Between 37th and 38th street.

Q Did you look uptown or downtown? A First I looked downtown a way, and then afterwards uptown.

Q When you looked downtown did you see any policeman? A I did not. If I had I would have accosted him.

MR. CLARK: I move that be stricken out.

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THE COURT: strike out after the words "I did not."

Q You did not see Officer Tetzner crossing Sixth avenue on a fast walk or a run at that time, did you? A No.

Q Did you walk as far as 37th street, or did you run, after the defendant left the table? A I was not running, I was looking right and left and walked fast towards 37th street.

Q How far did you get before you saw the policeman? A I went between 37th and 38th streets; I did not go anywhere else.

BY THE COURT:

Q How far had you gone before you saw a police officer?
A I could not tell you how many feet I covered. I went on the block; I covered one block up and down.

Q Where were you when you saw the officer? A I saw the officer at the last moment, when I saw that they had shut the door of the store, and they would not permit me to go down.

Q Did you see a police officer while you were going from the door of your restaurant towards 37th street? A No.

BY MR. KELLY:

Q Did you on your way back from 37th street to the store see any police officer? A I did not.

BY THE COURT:

Q Did you go all the way from the door of your restaurant to the corner of 37th street? A Yes, sir.

Q Did you then turn back and go to the restaurant door?
A Yes, sir; and I descended the stairs.

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BY MR. KELLY:

Q How long did you stay in the store then when you went back? A Only a second or so. I just peeped in and looked to see if there was any other officer there, and I went out again.

BY THE COURT:

Q And where were you when you saw the officer? A I went to 38th street and when I came back I saw the place surrounded.

Q When did you first that night see a police officer? A Outside the store door, when the door had been shut.

Q Did you see a police officer at any time before you saw the defendant, as you say, down by the restaurant on the southeast corner of 37th street and Sixth avenue, yes or no? A No, I hadn't see one.

BY MR. KELLY:

Q When you went back into the store, after you had gone to 37th street, was your partner in there at the time, or had he left? A No, he had already stepped out himself.

Q At that time, after you had gone as far as 37th street and back again to the store, your partner had gotten out of the store, is that right? A Yes, sir, he came out.

BY THE COURT:

Q Did you see him on the street? A Yes, I saw him on the street.

BY MR. KELLY:

Q Where was he on the street? A Outside the store, near the

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middle of the block.

Q And when you saw that he had gotten out of the store, then you got away yourself out of the store, didn't you? A Well, I came out to look for a policeman, and they would not let me go back to the store.

Q And you and your partner both left your partner Lailakus lying on the floor in there, without bothering about anything except to get a policeman, is that right? A Well, Sturkos had him under the arms, supporting him, and we went out for the police officer.

Q And when you went back to the store there, when you saw the policeman there, you didn't tell the policeman did you that you were the owner of that place? A No, I did not; I was off my mind at the moment. They pushed me and I stood for a moment outside.

Q Where did you go then? A I went to the restaurant called Great Epirus.

Q Where was that? A On the downtown side of 37th street and Sixth avenue.

BY THE COURT:

Q And you remained there about how long? A About an hour.

Q Still in your white kitchen clothes? A Yes, sir.

BY MR. KELLY:

Q Did you meet your partner there? A No.

Q When did you see your partner after that? A The following

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