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

2892

THE PEOPLE OF THE STATE OF NEW YORK

: Before

-against-

: HON. JOSEPH F. MULQUEEN,

S A M S A C C O.

: Judge,

and a jury.

New York, January 7, 1918.

The defendant is indicted for an attempt to  
commit murder in the first degree as a second offense,  
and assault in the first degree as a second offense

Indictment filed August 29, 1917.

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

For the People: ASSISTANT DISTRICT ATTORNEY McDONALD, ESQ.

For Defendant: W. R. DUEL, ESQ.

A jury is duly impanelled and sworn.

Mr. McDonald opens to the jury.

MR. McDONALD: As I have already told you, the de-  
fendant, Sam Sacco, was indicted with Charles Young and  
Peter Bianco in an attempt to commit murder in the first  
degree as second offense and assault in the first degree  
as a second offense.

The People expect to prove that on the 20th day of  
August, 1917, at about the hour of 8:30 P. M. the com-  
plaining witness, Dominick DeLuca was sitting with his

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his brother and two other men outside of the saloon kept by his father, on the southeast corner of 110th Street and Second Avenue; that the defendant appeared from behind a sign, accompanied by Charles Young and by Peter Bianco and started shooting, firing three or four shots, and at that time one of those shots struck the complaining witness, Dominick DeLuca in the arm, going through the upper part of the arm. Thereupon the people around the place scattered. A few minutes thereafter DeLuca went over to the drug store across the street and while he was in the drug store, the defendant and two others, Charles Young and Peter Bianco fired more shots at the complaining witness. We will show that pedestrians - a boy was shot as he was watching this shooting af-  
fray, and that an innocent passer-by was shot in the ankle. Meanwhile, to give you the whole history of the case, after the first shooting, the brother of the complaining witness, seeing the three men firing, ran some place and got a gun and while the shooting was taking place outside of the drug store, he fired, killing a brother of this defendant. So you will see that there was a general gun fight around and about this place at the time. That in a general way gives you the facts of the case, and they will be brought out more in detail by the witnesses produced by the People.

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## PEOPLE'S CASE.

MR. McDONALD: The Defendant's counsel concedes that the defendant was previously convicted, and I will read into the record the prior conviction.

MR. DUEL: Yes, as charged in the indictment.

MR. McDONALD: The defendant through his counsel concedes that on the 21st day of May, 1915, before Judge Wadhams, in the Court of General Sessions, the defendant was convicted of a felony, to wit:- the crime of criminally having and carrying a fire-arm concealed upon his person, and was sentenced to Sing Sing prison for two and a half years.

MR. DUEL: Yes.

DOMINIC DE LUCCA, of 106 East 113th Street.  
a witness called on behalf of the People, being duly sworn, testified as follows:

MR. McDONALD: I offer in evidence a diagram, subject to corrections of the place of the occurrence.

MR. DUEL: No objections.

THE diagram is marked in evidence as People's Exhibit 1.

MR. McDONALD: I offer in evidence three pictures or photographs of the premises at 110th Street and Second Avenue, southeast corner, there being no objection by counsel for the defendant.

MR. DUEL: No objection.

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The photographs are marked in evidence as People's Exhibit 2, 3 and 4.

DIRECT EXAMINATION BY MR. McDONALD:

Q You are now in the army, are you? A Yes sir.

Q To what regiment do you belong? A 306 Infantry.

Q Where are you stationed? A Company L.

Q Where are you stationed? A I don't understand you.

Q Where are you, at Yaphank? A Yaphank, Long Island.

Q Do you know the defendant, Sam Sacco? A Yes sir.

Q How long do you know the defendant? A For about eight or nine years. We were kids, brought up together.

Q Where, in this City? A Yes sir.

Q Did you see him on the 20th day of August, 1917?

A Yes sir.

Q Had you seen him previous, - about three or four weeks previous to August 20th, 1917? A No sir.

Q About what time did you see him on the 20th of August, 1917? A It was about twenty minutes to nine.

Q About where were you at that time? A Going over to the drug store.

Q Previous to that where were you? A Sitting in front of the saloon, right next to Joseph Priano, Robert Rossie, my brother and another fellow named, Danny.

Q You say you were sitting in front of the saloon?

A Yes.

Q Whose saloon is that? A My father's saloon.

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Q Tell us how you were sitting with regards to the corner? A Well for instance, this is the saloon ( indicating) Here is the crosstown, the corner of 110th Street. I was sitting as I am now. Robert Rossie alongside of me on my left and my brother alongside of Robert Rossie, and Danny standing alongside of my brother, and Joseph Priano between the door and me.

Q Between the door and you? A Yes.

Q Was anybody else sitting there? A No sir.

Q What part of the front of the store were you at? A The door is right in the front.

Q Show us on which side, on People's Exhibit 3 in evidence; where you were, what part of the store? A On the left (indicating).

Q Point it out there. A Right here, We were all sitting here. (indicating).

Q Put a cross there. A Where I was sitting?

Q Yes. A (Witness indicating by marking a cross mark).

Q Now put your initials there, also. A (Witness indicating by marking initials).

Q Now, what sort of a chair were sitting on, a wooden chair? A A wooden chair, yes sir.

Q Now then, just tell us what was the first thing that happened? A The first thing I seen, some fellow by the name of John Pagano and Charley Young stepped from out a sign and John Pagano fired one shot and hit me right on the right arm.

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Q Is that the chair you were sitting on? (Showing a chair to the witness). A Yes sir.

Q Just before any shooting occurred, what was its condition? A O. K. The same as every other chair in the saloon.

MR. DUEL: I move to strike out the words, "The same as every other chair".

THE COURT: I will strike it out.

A. The chairs are all one kind.

THE COURT: Strike that out. Just answer the questions that are put to you.

Q And you say you were sitting on this chair? A Yes sir.

Q Now then just tell us what happened? A I was sitting on the chair when I seen some fellow by the name of John Pagano and Charley Young step from behind the sign and John Pagano fired the first shot and hit me on the right arm. I fell and Charley Young fired two more shots.

Q Who? A Charley Young fired two more shots, and they both ran up in 10th Street and Third Avenue. (110th) When I picked myself up I seen Peter Bianco and Joseph Sacco right near the mud gutter.

Q Joseph Sacco, that is not this defendant? A No, that is the brother; Peter Bianco fired three or four shots and I laid on the floor again. I got up after that and I went over to the drug store with a fellow named Danny, that was standing alongside of my brother. As we got to the

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door of the drug store I heard another shot and I laid down on the floor this way (indicating) and looked back and Sam Hurley fired two more shots at me. He ran up to the Church, which is about three houses away from the saloon.

Q Did you see him? A Yes, he got into a big, black car standing there. I got in the drug store and I told Danny to call up the Harlem Hospital.

Q Never mind what you told Danny. What did you do then? A The fellow from behind the counter of the drug-store was bandaging up my arm when I heard six or seven other shots fired outside. Then they took a little boy inside and another young man inside. He looked to be an old man to me. I did not recognize him. Then I seen his young wife came in and started crying.

Q Whose? A Hoe Sacco's.

Q Did you see this defendant after that? A No sir. She started crying and she said, "Oh, my husband, your brother is the cause of his death, your brother is the cause of his death." She said it twice. Then the officers came in there. After a little while a doctor came in and picked me up and the other boy, and they put the two of us in the ambulance and took us to the Harlem Hospital. The next morning I seen another young man about two beds away from me saying they picked him up in 112th Street. He was shot in the right leg.

MR. DUEL: I move that the witness's statement

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what he heard another man say, be stricken out.

MR. McDONALD: No objection.

MR. DUEL: At this time I move to strike out the of this testimony respecting what Joseph Sacco's wife said in the drug store, claiming Samuel is the cause of the brother's death.

THE COURT: Motion granted.

Q You say you were shot? A Yes, on the right arm.

Q Show us where? A Right here (indicating forearm above the wrist).

Q Is that where you were shot? A Yes. This is the way I was sitting (indicating).

Q How long did you remain in the hospital? A About four days.

Q Did that wound go right through your arm? A The doctor took the bullet out. It did not go through.

Q Just look at this chair (handing chair to the witness), what was its condition at the time you sat in it, previous to any shooting? A The same as this other side.

Q Did you see it after the shooting? A No sir, I did not.

BY THE COURT:

Q When was the first time you saw it after the shooting?  
A When I took it out from the saloon and put it near the door and sat on it.

Q After the shooting? A After the shooting I did not

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see it. This is the first time.

Q Was that the chair you were sitting on? A Yes sir.

THE COURT: He said he never saw it from that time to this.

THE WITNESS: That is right, your Honor.

MR. McDONALD: I offer to have this chair marked for identification.

Chair marked People's Exhibit 5 for identification.

Q Is this chair now in the same condition as it was when you sat in it? A No sir.

Q What changes are in it? A It is broke there. There is a bullet hole in the bottom.

Q Here? (indicating) A Further down (indicating on the right side of railing of chair).

MR. McDONALD: That is all.

CROSS EXAMINATION BY MR DUEL:

Q How many shots in all were fired? A I could not tell you.

Q About how many? A Well, about 15 shots.

Q Within the space of what time? A Within the space of about half an hour.

Q Where were you during that half hour? A Well, I was in front of the saloon and I was in the drug store.

Q How long were you in front of the saloon after the first shot was fired? A About seven or eight minutes.

Q How many shots were fired before you got to the

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drug store, after you left the saloon? A About seven or eight.

Q Was that still while you were on the street? A Yes.

Q How many shots were fired while you were in front of the saloon and going to the drug store? A Three of them.

Q That made a total of about ten while you were exposed on the street to the shooting? A Yes sir.

Q About ten shots? A While I was on the street, yes sir.

Q How many people did you see fire shots at you? A I seen John Pagano and Peter Bianco and Sam Sacco, which is Samuel Hurley.

Q Which one fired first? A John Pagano.

Q How many did he fire? A One.

Q How far was he from you when he fired that one? A Right near where the sign of the saloon is, where it says, "Lunch".

Q Does that show on any of these pictures? Where is that sign? A It is right on the corner of the window.

Q Can you point out its location on this picture, although it is not there, on Exhibit 3? A Here is where it is located (indicating).

Q Put a cross mark there. A (Indicating by a cross mark)

Q Does it project out from the building into Second Avenue? A No sir, just straight.

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Q Does it project into 119th Street? A No sir.

Q What do you mean, straight? A Straight to the avenue. You can see it on both sides, going up or going down.

Q Do you mean it projects out from the building line like this (indicating)? A No, it is hooked this way (indicating at right angles).

Q Straight out into the avenue? A Yes.

Q Does that sign reach all the way to the ground or only to the bottom of the window? A Right to the ground. She stands on the ground.

Q How high is it? A I don't know. maybe it is about three feet.

Q Do you know whether that sign has been moved from the window or not? A No sir, it was not removed.

Q It is still there? A Yes sir. Of course, my father placed it in when he closes up the place.

Q Every night? A Yes. He puts that sign out every morning about 11 o'clock.

MR. DUEL: I assume from that, this picture was taken at a time when the saloon was closed.

MR. McDONALD: Yes. That picture is only to give a general idea.

Q How high does that sign reach above the ground?  
A About three feet.

Q Who was the next one who fired a shot at you?

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A Charley Young, he fired two other shots.

Q He fired how many? A Two other shots while I was lying on the floor.

Q Where were you lying on the floor? A Right in the doorway, with my feet out, the saloon doorway.

Q Where was Charley Young? A In back of John Pagano.

Q Did you see John Pagano at the same time that you saw Charley Young? A John Pagano was the first man I seen.

MR. DUEB: I move to strike that answer out as not responsive.

THE COURT: Well, he answers your question indirectly.

Q You saw Charley Young fire two shots after John Pagano fired the first shot? A Yes sir.

Q Ypu saw him back of the sign? A No, he was out from the sign, about six inches out from the sign, the two of them together.

Q Exposed to your view? A Yes.

Q Where was John Pagano at that time? A Right next to Charley Young.

Q In toward the sign? A About six inches away from the sign.

Q And so was Charley Young? A Yes sir.

Q They could not both occupy the same place, could they?  
A Yes sir.

Q When you fell on the floor of the saloon door, did

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you fall in with your head towards the door of the saloon?

A Towards the door you mean?

Q Towards the door of the saloon? A Yes.

Q With your feet out? A Yes sir.

Q How were you able to see these two men if your head was inside the door? A I could not see them men when I fell down after they had fired.

Q I thought you just stated you saw them after you fell down, you saw Charley Young fire. A After I fell down they both run to 10th Street and Third Avenue.

Q That is not what you testified to before. A That is what I testified to.

Q Who fired the shots after that? A Peter Bianco, standing alongside of Joe Sacco.

Q After Charley Young fired his two shots, what did you do? A I got up and I was going into the saloon to tell my father I was shot in the arm and I was going to the drug-store. While I was going out I seen Peter Bianco and Joseph Sacco standing near the gutter.

Q How far were you from the saloon at that time? A When I seen them?

Q Yes. A Well, I was just going to go out of the door.

Q What part of the gutter were they in, down toward 110th Street? A Straight to the door.

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Q Straight in front of you? A Yes.

Q Who did you see there? A Peter Bianco and Joseph Sacco.

Q What did you do? A I seen Peter Bianco with Joseph Sacco go for his pocket. I got behind the door and there was three or four other shots fired.

Q Who fired those shots? A Peter Bianco.

Q What door did you get behind of? A On the right hand door of the saloon.

Q Inside? A Yes sir.

Q What did you do after that? A After them shots was fired I went out with a fellow named Danny to the drug-store. As I got near the door of the drug store Sam Sacco fired a shot and I laid on the floor and seen him fire two other shots and he ran down to where there was a big, black car standing near the Church, three houses away from the saloon, and the car shot down First Avenue.

Q How many shots did you say he fired then? A Three shots.

Q In your first testimony you said two shots? A No sir.

Q I have it written down here. However, if your recollection is better, all right. You do not want to revise your testimony, you make it three? A He fired one shot and I fell on the floor and then he fired two other shots at me and run down near the Church where there was a big, black car and he got in and the car went down First Avenue.

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Q Again you fall; I suppose with your head inside the drug store? A Then I went into the drug store.

Q When you fell, you fell with your head towards the door of the drug store? A No, I was near the door. I did not fall to the drug store. I fell still right on the floor and pretended to be dead. I made out the shot hit me. so he would not come in after me again.

Q But you lifted your head around to see which way Sam ran? A I was lying that was. I could see him right to the other side.

Q Who was it got into that car? A He was the only man I seen.

Q Nobody else in the car? A I did not see. The back of the car was facing Second Avenue.

Q How far away was Sam when he shot you? A Right in front of the saloon, on the opposite corner.

Q Would that be the southwest corner of 110th Street and Second Avenue? A Southwest corner. Near the shanty. There is a shanty there, That is like on the avenue, the shanty.

Q I show you this diagram, People's Exhibit 1. Make a cross where this sign is, the De Lucca Cafe. A Here is the front door of the saloon. Right alongside of the saloon there is a shanty, right here (indicating). It is right up against the saloon. It is on 10th Street (110th).

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Q An appurtenance of the saloon? A Yes, exactly right up against the saloon.

Q This is your cross here? A Yes.

Q Just put your initials there. A (Witness indicating by making initials).

Q How far back from the building line is that shanty? I mean from the Second Avenue building line? A I could not tell you. 15 or 20 feet, I could not tell you.

Q Ten feet? A I could not tell you; I don't know.

Q How long has your father owned that saloon? A He owns that saloon a little over two years.

Q And you have been around there for two years? A Yes.

Q And you don't know how far back from the building line that shanty is? A No sir.

Q That is, the Second Avenue building line? A No sir.

Q Now where were you when you say Sam Hurley or Sam Sacco fired that first shot? A Right on the opposite side, right here (indicating), going into the door.

Q In other words, he let you get completely across the street? A Yes sir.

Q To the drug store? A Yes sir.

Q Over to where you made this mark here, before he fired that first shot? A Yes.

Q Then you dropped down? A Yes.

Q And then two more shots were fired? A Yes.

Q Your head was away from him, wasn't it? A Yes sir.

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Q But I suppose you doubled it around so that you could look back from this shanty? A No, I didn't double it around. I just dropped this way (indicating).

Q Now initial this other cross marked place, please.

A (Witness marking with initials).

Q How long a time elapsed between the time that John Pagano fired the first shot and Sam Sacco, as you said, fired the last shots? A About fifteen or twenty minutes.

Q How many policemen were around at the time Sam fired the last shot? A I did not see any.

Q Have you ever been convicted of a crime? A Yes sir, once.

Q Weren't you in the Catholic Protectory twice? A Yes sir, my father put me there.

Q Weren't you in the penitentiary? A Yes sir, that is the time I was convicted.

Q For horse stealing? A No sir.

Q What was it for? A For petit larceny.

Q You mean that is what you were convicted of? Weren't you arrested for stealing a horse and wagon? A No sir, that was not the crime.

BY THE COURT:

Q What were you sentenced to the penitentiary for?

A For stealing a case of eggs.

BY MR. DUEL:

Q Weren't you arrested in May, 1915, for participating

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in a shooting match up there in Harlem where a man named Maleno was killed?

MR. McDONALD: That is objected to.

Objection sustained and exception taken.

THE COURT: Mr. Duel, you have been in the District attorney's office long enough to know that it is improper to inquire about an arrest, unless there is a conviction.

Q Did you know a man named Genero Jidici? A No sir.

Q Did you ever hear that name mentioned? A No sir.

Q Did you ever mention that name in the Third Branch Detective Bureau the night you were shot? A No sir.

Q You did not? A No sir.

MR. DUEL: That is all.

RE DIRECT EXAMINATION BY MR. McDONALD:

Q When was it that you had a talk with this defendant just previous to the shooting? A It must have been about four weeks before that, in the College Inn cabaret, in 125th Street near Ninth Avenue.

Q What was it the defendant said? A He called me down in the latrine, that is the toilet, and he asked me, - he told me rather, that he was sent to me by the Brooklyn people to kill Ciro and Vinc Morelli, - that is the two brothers. So I told him I would not do anything like that. So we went upstairs and he called me down again and he said to me that I should not put him off, that it would be bad.

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so Sam came downstairs and we went up again. At the third time he called me and my brother down and we both went down there and he said to my brother "You are the nearest fellow to Ciro."

Q Who is Ciro? A Ciro Morrelli. That is Vinc Morelli's brother. He said, "You will have to put him out of the way or otherwise it will be bad for you." So my brother said, "I would not do a thing like that. If we want to be good friends don't talk to me about anything like that." He said, "I was sent over by the Brooklyn people." My brother, he said, "I don't know them people, so I would not do it."

Q Is that all the conversation?

MR. DUEL: I move that this conversation be stricken out as immaterial to this case.

THE COURT: It is always permissible to show that a defendant made a threat.

MR. DUEL: If any threat was made, according to this conversation, it was a threat to kill a man named Ciro, through the agency of Dominic.

THE COURT: A threat to injure the De Luccas if they did not kill these other man, the Morellis. I will simply allow it as some evidence of a threat, and I warn the jury that they must not be prejudiced against the defendant on account of the alleged conversation, other than to view it in the nature of a threat, if they

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find that it was a threat. It contains some slight evidence of a threat.

Q Did he say anything further to you at any time?

A No sir.

Q Did he say what would happen to you in case you should not do what he asked you to do?

MR. DUEL: Objected to as leading the witness.

Q Tell us all that happened?

THE COURT: If he said anything further in the way of a threat he may say so.

A He told us that we would be killed. A few days after that I heard that this Robert Rossie was shot in the Bronx.

Q What did he say? A He told us we would be killed.

Q You say that was all the conversation at that time?

A Yes sir. Then he had a conversation with my brother, which I don't know.

Q He did not have any further conversation with you before the 20th of August? A No sir.

Q Now you say you were in front of the saloon at the time you were shot? A Yes sir.

Q That is in the County of New York? A Yes sir.

Q 110th Street and Second Avenue? A Yes sir.

MR. McDONALD: That is all.

RE CROSS EXAMINATION BY MR. DUEL:

Q Where is the College Inn located? A In 125th Street near Ninth Avenue.

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Q Between Ninth and what avenue? A Ninth and Eighth Avenues. Between Ninth and Eighth.

Q You mean between Eighth and Manhattan? A Right near the corner of Ninth Avenue. I have been there three or four times.

MR. DUEL: That is all.

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1  
JOSEPH J. PRIANO, of 231 East 108th Street, called  
as a witness on behalf of the People, having been duly  
sworn, testified as follows:

DIRECT EXAMINATION BY MR. McDONALD:

Q What is your business? A Private detective.

Q By whom are you employed? A Captain Riley's Detective  
Bureau.

Q Do you know Dominic DeLuca? A I do.

Q Do you know the defendant, Samuel Sacco? A I do.

Q Were you in the saloon premises of the complaining wit-  
ness on the 20th day of August, 1917? A I was.

Q At what time of the day? A I was there from six o'clock  
in the evening.

Q Until when? A Until the shooting happened, until about  
eight thirty or nine o'clock.

Q Did you remain inside of the saloon all the time? A No  
sir, I was standing outside in front of the doorway.

Q About what time did you go outside of the saloon? A I  
should judge about eight o'clock, something like that.

Q Did anybody go out with you? A Yes, the two DeLuca  
brothers and a few others.

Q Dominic DeLuca? A Yes.

Q And Tony DeLuca? A Yes.

Q And who else was there? A A couple of others, boys.

Q Where did you go when you went out of the saloon? A I  
stood in front of the doorway.

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Q Did anybody sit down? A Yes sir.

Q Were there chairs outside of the saloon? A Yes.

Q Leaning up against the window? A Yes.

Q Where were you standing? A Right near the window, and Dominic was sitting down.

Q That last witness here? A Yes, that man in uniform (indicating Dominic DeLuca).

Q Mark on there where you were standing, on People's Exhibit 3 in evidence? A I was standing right here (indicating).

Q Mark it with your initials? A (Witness making a mark and a cross).

Q You say Dominic was sitting alongside of you? A Yes, on a chair.

Q And you were standing up? A Yes sir.

Q And how long had you been outside of the saloon before any shooting took place? A About half an hour, I should judge.

Q Tell us what happened at the time of the shooting, or just previous? A Previous to the shooting I noticed a black touring car coming from west on 109th Street, shooting east. I said to Dominic --

Q Never mind what you said to Dominic. You said something to Dominic? A Yes. Then I walked to 109th Street and Second Avenue, the northeast corner, down to the middle of the block and I noticed this black touring car stopped in front of a cafe. I afterwards came back to the saloon where the boys were standing and I stood there. About twenty or twenty-five minutes after that.

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the first thing I know, I heard shots come in our direction. I noticed two men crouching behind a big sign, a lunch sign, and another young man who I got in Albany, that was wanted for murder, by the name of Peter Bianco --

MR. DUEL: I move to strike out the last part.

THE COURT: Strike it out. Leave out these allusions, and the jury will disregard that.

A (Continued) This Peter Bianco was in the car tracks, firing also in our direction.

Q Who were these two men? A Crouching behind the sign?

Q Yes. A One I know as Charley Young, and this defendant here.

Q The defendant Samuel Sacco? A Yes.

Q This sign you talk about; what kind of a sign was it?

A A lunch sign. It was made of tin with a wooden frame.

Q A sort of triangular sign resting on the ground? A It was resting on the ground.

Q Where was this sign placed? A Right near the corner of the saloon.

Q But on the Avenue? A On the Avenue.

Q You say you were standing up there during all that time?

A Yes.

Q What happened after you saw these two men crouch behind a sign? A I seen the shots come and we ran. Then I heard Dominic say, "I am shot". As he said that I gave chase after this Bianco. I think a police officer was behind me through Tenth Street

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(110th Street?), who tried to get this fellow, but he got away from us. I came back, and as I went to the drugstore I noticed a party shooting into the drugstore after Dominic, and as he done that I noticed Dominic's brother Antonio pull out and shoot this other man. I made for his hip pocket and killed him. I told Dominic, "Don't run away; stand there, we will all go up to the Branch", because the Detective Bureau knew this for several weeks, this was supposed to come off.

MR. DUEL: I move to strike out what the Detective Bureau knew.

THE COURT: Strike it out.

THE COURT: (Addressing witness) The jury will pay no attention to anything you say, if you do not refrain from making such remarks. Such remarks only show bias on your part. Just answer the questions put to you. The jury have a right to consider whether you are biased or not, and all those things that you interject, notwithstanding my warnings to you not to do so, simply are proof of bias; do you understand that?

THE WITNESS: Yes.

THE COURT: So please answer the questions that are put to you and nothing else.

Q Where was Peter Bianco standing at the time of the firing?

A In the middle of the car tracks.

Q What car tracks? A The Second Avenue Railroad.

Q And the other two men? A Were crouching behind this sign.

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Q They were shooting where? A Towards us, towards the doorway.

Q Just show us where this lunch sign was on the night you are talking about. Mark it there on People's Exhibit 3 with your initials. A Just about there (marking with initials).

Q That is about where the sign is? A Yes, right at the corner of the saloon.

Q At the intersection of the street and avenue? A Yes sir.

Q How long do you know Sacco? A A good number of years.

Q About how long? A About ten or fifteen years, I think.

Q There is not any doubt about that he was one of the men who was firing from behind the sign, in your mind? A No.

Q How far away from him were you? A I should judge about --

Q The length of this window? A About the whole length of the window. I was on the opposite side of the door.

Q About how many feet is that window? A About 25 or 30 feet.

MR. McDONALD: Your witness.

CROSS-EXAMINATION BY MR. DUEL:

Q What is your full name? A Joseph J. Priano.

Q What is your nationality? A Italian.

Q What is your business? A Private detective.

Q You are a private detective about how long? A About ten years.

Q Where are your offices now? A 225 Fifth Avenue, connected with Captain Riley.

Q Are you employed by him or are you associated with him?

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A I am employed by him.

Q How long have you been employed by him? A I am with him now about two weeks, or a little over two weeks.

Q Who were you employed by before that? A The Manhattan Detective Agency, and before that Brown's Detective Agency and before that Fay's Detective Agency.

Q During what period of time were you employed with those three concerns? A Always.

Q Who were you employed by in August, 1917? A If I am not mistaken I think it was the Manhattan.

Q So from the Manhattan you went to Riley? A I left the Manhattan and then done work of my own accord through different attorneys, divorce actions, and so forth, and then to Riley.

Q Are you a divorce specialist? A No, not a specialist. All criminal cases.

Q Whom were you with before you went to the Manhattan?

A Fay's Detective Agency.

Q You did not mention that before? A And Brown's Detective Agency.

Q Brown's, Fay's, the Manhattan and Riley's? A Yes sir.

Q What other concerns? A That is all.

Q Those are the only ones? A Yes.

Q When were you working for Fay? A Over a year ago.

Q When did you first go to work for him? A I do not recall.

Q When did you work for Brown? A When he first got into business, I was manager of the concern, 391 East 149th.

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Q How long were you with him? A Until his death, about two years ago.

Q In other words you worked for him about seven or eight years? A I do not know how long he was in business before he died, and after he died the firm went out.

Q You said you were a private detective for ten years? A Yes.

Q And you only worked for four concerns? A Yes, but I was three years with one, worked four years for another, and so forth.

Q You said you worked for the Manhattan concern in August, 1917? A Yes.

Q And then for Riley and for Fay before that? A Yes.

Q Then I asked you how long you were with Brown and you did not know? A I should judge for four years; I am not sure.

Q How long were you with Fay? A About a year and a half. I don't know for sure.

Q How long were you with the Manhattan? A About two years or so.

Q What names do you go by? A Always as Joseph J. Priano.

Q You never used any other? A No sir.

Q Under no circumstances? A No sir.

Q How long have you known the DeLucca brothers? A I went to school with them; since boyhood.

Q They have been friends of yours all your life? A Always.

Q You never have been convicted of crime, of course? A No sir.

Q Have you been employed by anybody in this case? A No sir.

Q Have you received any expense money from anybody in this

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case? A No sir.

Q You come here to testify in this case, therefore, solely out of your interest in justice?

MR. McDONALD: He comes in answer to a subpoena.

Question withdrawn.

Q How long have you known the defendant? A About ten or fifteen years.

Q Did you ever visit at his house? A No sir. I always met him in the street.

Q Did he ever visit at your house? A No sir.

Q Did you ever take a drink with him? A No sir, I do not drink.

Q What do you mean by visiting him in the street; did you see him in the street? A I met him and talked to him many a time.

Q When did you talk to him last, before this shooting?  
A I don't recollect that.

Q Approximately? A How could I remember when I talked to him last?

Q When did you see him last before the shooting; you say you saw him in the street and have known him for about fifteen years?

A I might have probably seen him a month before that, for all I know.

Q Haven't you any recollection of the last time you saw him, and where, before the shooting? A On one occasion I met him in 109th Street and Third Avenue, northeast corner, talking to a couple of boys.

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Q What was that occasion? A Just passing by, and I said hello.

Q What made you single out 109th Street and Third Avenue?

A I know he always hung out there.

Q So you might have seen him there? A I know he hanged there.

Q When do you think that was? A I don't know. It might have been a month or two months before the shooting.

Q Or three or four months? A I could not tell.

Q And before that when did you see him? A I wish I would know, I would tell you. I would often see him passing by.

Q Did you see him last spring, in April? A I would not say that. I think he was in jail at that time, if I am not mistaken. I met him in Ossinning.

Q Do you remember; have you any clear recollection of having seen him before the shooting? A I said probably a month before or a week before, I am not sure.

Q There is no doubt in your mind, however, that he was the man, Charley Young, or Archafalo. You know him as Charley Young?

A Yes.

Q Behind the lunch sign? A Yes.

Q At the time of the firing of the shots? A Yes.

Q You say as soon as the shot from Peter Bianco's gun in the car track went off, when the shots of the two men went off, you ran after Bianco? A I ran after him through Tenth Street (110th?), going towards Third Avenue. I think a young police officer was behind him.

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Q Did you see that police officer later? A No, not from that day to this.

Q How far did you run, as far as Third Avenue? A No sir, about to the middle of the block. Then I came back.

Q Where was Dominic when you came back? A I think he was in the drugstore.

Q Don't you know where? A I am quite sure he was in the drugstore.

Q Is every detail of this scene in your memory? A There is no doubt in my mind he was in the drugstore.

Q Inside of the door? A Yes sir.

Q There is no doubt in your mind somebody was firing shots? A Yes sir, right into the drugstore.

Q Who was that? A I could not tell. There was a big crowd there.

Q What did you do when you saw that? A When I seen the shots going into the drugstore, Antonio DeLuca comes from --

Q I am asking you what you did? A I stood there in the crowd.

Q You did nothing? A No sir.

Q How long did you remain there on the scene? A For about a half an hour afterwards.

Q Then where did you go? A Then I went with Antonio DeLuca to the Third Branch Detective Bureau.

Q Who did you see there? A I went there and I seen Captain Price, Enright; Inspector Craig was there and a couple of others.

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I don't know who they were.

Q Did you stay with them all night? A Yes.

Q Helping them with the case? A No, not helping with the case. I just told the two brothers to confess and tell the truth.

Q What two brothers? A The DeLucca brothers.

Q To confess? A Yes, to tell the truth of how the shooting was.

Q They had not committed any crime, had they? A The brother committed murder in self-defense by shooting Joe Hurley.

Q Joe Sacco? A Yes.

Q You told him to confess? A I told him to tell the truth.

Q Did he do it? A Yes sir.

Q He confessed, did he? A Yes.

Q That he killed in self-defense? A Well, he told how he shot him.

Q Then what did you do after that? A Then I went home.

Q What time did you get home? A About six or seven o'clock that morning.

Q You did not go home until they were through examining these people, did you? A What people.

Q What they had under examination? A I was not in the room where they were. I was in another room.

Q Did you see this defendant there? A I did.

Q What time was that? A Sometime during the morning. I do not recollect when it was.

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Q One or two o'clock? A I could not tell you the exact time.

Q Three or four o'clock? A I could not tell you the exact time when it was.

Q Why not? A I did not pay attention.

Q Can't you apportion that night in some way? A I know it was all morning they were bringing them in. At the first batch they brought in Charley Young and a couple of others in a touring car. After a while they brought him in. It may have been an hour or two after that.

Q Did they bring in any more batches after that? A That I do not recall.

Q They brought in two batches anyway? A That I know, yes.

MR. DUEL: Your Honor, I desire to have the witness write the name of Joseph Shoemaker on this piece of paper.

A Why should I write that name?

THE COURT: I so direct you. You write anything that Mr. Duel tells you to write. You are here now subject to the orders of the Court.

Q Write Joseph Shoemaker (spelling name out to the witness).

Witness writes the name as requested.

MR. DUEL: I offer that for identification.

Paper marked Defendant's Exhibit A for identification.

MR. DUEL: That is all.

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ROBERT ROSSIE, of 221 EAST 14th Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McDONALD:

Q Do you know the defendant, Samuel Sacco? A Yes sir.

Q How long do you know him? A About a year or a year and a half.

Q Did you see him on the 20th day of August, 1917?

A Yes sir.

Q Where were you at that time? A Sitting in front of Le Lucca's saloon.

Q About what time was it? A About half past eight.

Q In the evening? A Yes sir.

Q Who was there in front of the saloon? A Antonio De Lucca, Dominic De Lucca, myself and a fellow named Danny.

Q When was it that you saw the defendant before the 20th of August, 1917? A I seen him in the month of August the night he shot me.

MR. DUEL: I object to that.

THE COURT: I will strike it out.

Q About how long before the 20th of August had you seen and talked with the defendant Sacco? A I could not explain that. The only way I can explain is the night I was shot on.

Q Was it a week or two weeks before the day --

THE COURT: What difference does it make when he saw him before this? If he was present there on this

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night that we are investigating about, let him say so. Whether he saw him before or after, that may be brought out on cross-examination.

MR. McDONALD: I want to bring out that the defendant asked this man to shoot Tony De Lucca.

THE COURT: All right, but bring out what he saw that night, first.

Q Just tell us what happened that night, the 20th of August, 1917? A That night I was sitting in front of the saloon, the three of us; myself was the third man. The fourth man was standing.

Q Who were the three men? A Tony De Lucca, Dominic Delucca and myself were sitting and Danny stood up.

Q A man named Danny? A Yes.

Q Fortunash; have you heard his name since? A Yes.

Q Is it Fortunash? A Yes.

Q Who else? A Just those four.

Q Did you see Joseph Priano there? A He was standing out in the street, right on the corner, like on the corner.

Q Not close up against you? A He was about three or four feet from us?

Q Just tell us what happened? A We were sitting there. While we were sitting there we were talking to one another. Tony DeLucca was talking. So all of a sudden somebody fired three or four shots from the corner.

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Q From where? A From behind the lunch sign.

Q Where was this lunch sign? A It was right on the corner.

Q Just mark on People's Exhibit 3 in evidence, where the sign was. A The sign was over here and we sat here (indicating). The shot came from here. (indicating).

Q Did you see who was shooting? A I seen a fellow named Pagano shoot and Charley Young stood next to him, and Sacco I did not see. I seen Sacco backing out of the drug store after firing three or four shots into the drug store.

Q Well, before you tell us about that. Just tell us what happened at the corner saloon there. A While the shots were fired Dominic De Lucca was the only one that was hit.

Q Where was he hit? A In the arm. So he jumped up and hollers, "They got me." So Dominic and three or four, the whole lot of us sitting there, we goes inside with Dominic into the saloon. So about three or four minutes after I heard three more shots outside of the door. In the meantime I didn't go out to see who was shot. Danny walked out with Dominic to look over to the drug store, into the drug store. I remained in the saloon about two minutes and I walked outside the door.

Q Outside of which door? A Outside of the saloon.

Q The front door? A Yes sir, and I stood on the corner amongst the crowd and then I heard about three shots

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and I turned around and I seen Sacco backing out of the drug store door.

Q This defendant? A Yes.

Q What was he doing? A He was firing shots into the drug store.

Q That is where you saw Dominic De Lucca going with Dan Fortunash? A Yes.

Q Did you see the gun in his hand? A Yes sir.

Q Then what did he do? What did you see? A Well, then after he fired the shots into the drug store, I got in amongst the crowd. After that I could not see nothing because there was nothing else happened.

Q Did you see where Sacco went? A I did not bother, no sir.

Q Did you have a talk with Sacco previous to that night?  
A No sir.

BY THE COURT:

Q How long have you known Sacco? A About a year and a half.

Q Didn't you ever have any talk with him about DeLucca?  
A Not that night.

Q On any time before that night? A Then I would have to tell you how I was shot.

Q Please answer my question yes or no. Did you ever have a talk with him about DeLucca? A Yes sir.

Q How long before this 20th of August? A About

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three weeks.

Q Tell us what he said to you at that time? A Well, that time I met him down at 46th Street and Broadway, him and Charley Young, and another fellow, I don't know his name. So he said to me, "Well, come on, we will take a ride to Brooklyn in the automobile." Three fellows and three girls. So one of the girls passed a remark, "Who is the three fellows?" So Young said, Charley, Robbie and Sam.

Q What did the defendant say to you? A After while we were in the car, while coming uptown he asked me would I kill Antonio DeLucca.

Q Did you go to Brooklyn with him? A Yes.

Q And on your way home from Brooklyn, what then? A He said he would take me home. He said to me, "We will take you up to 110th Street. On the way up he said will I kill Antonio De Lucca.

Q Will "I" or "You". A Will I kill him.

Q He meant you? A Yes.

Q He said Will you kill him Antonio DeLucca? A Yes.

Q He did not ask you whether he should kill him or not?

A No.

Q But he asked you to kill him, you say? A Yes.

Q What did you say to that? A I said to him, "No, I can't kill him." So he said to me, "All right, say no more about it." Then he said, "We will go up to see Nic Todo in

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in 149th Street.

Q Did he ever say anything more to you about deLucca?

A No sir. He shot me.

THE COURT: Strike out about the shooting and the

jury will disregard that.

By MR. McDONALD:

Q Did he tell you why he wanted you to shoot DeLucca?

A He had some trouble with De Lucca.

THE COURT: Strike that out. Anything that he said about De Lucca I will allow, and you may tell it.

Q What did he say the reason was that he wanted you to shoot De Lucca? A He had trouble with him.

Q Is that what he said? A Yes sir.

Q Did he tell you why he wanted you to do the shooting?

A He said I was the only one who got near enough to him.

Q You are the only who got near enough to De Lucca?

A Yes.

Q To shoot him? A Yes sir.

Q What did you say then? A I told him, No, I would not kill him.

Q Did he say anything about why you could near enough to De Lucca to kill him, rather than he? A Because he knew I was De Lucca's friend.

Q Did he tell you why he wanted you to shoot the DeLuccas; any reason for it? A Well, it was because of the trouble he had with De Lucca.

Q Did he tell you what the trouble was? A I knew

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the trouble, he did not have to tell me.

Q Did he tell you what that trouble was? A He said De Lucca fired three shots at him.

Q He said that De Lucca fired three shots at him?

A Yes.

Q Did he say when or why? A Yes sir.

THE COURT: What difference does that make, Mr. McDonald? We are not concerned with his reasons. It is merely admitted for the purpose of showing motive or threats.

MR. DUEL: There has been no motive established as yet.

THE COURT: It is not necessary to prove it, but they may prove it if they can. The fact that he did the shooting must be established to the jury, and that it was not justifiable, that it was not done in self-defense.

Q Do you know whose car that was that you went down to Coney Island in that night? A Yes sir.

Q Whose car was it? A Charley Young's.

Q He is the man that is co-indicted with the defendant? A Yes sir.

Q When you came back did you stop with the car in 46th Street? A Yes sir.

Q Did the defendant leave the car? A Yes sir.

Q Where did he go? A He said he was going up to

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get a raincoat. He came down and Charley went up to get a raincoat. So when he came down, rather when we were riding in the car, every once in a while the car would jump up and down and I could feel he had a gun stuck in his belt.

Q The defendant do you mean? A Yes sir.

Q Did anything happen to you that night? A Yes sir.

THE COURT: Well, that is entirely immaterial.

MR. McDONALD: Your witness.

MR. DUEL: Your Honor, I unfortunately had some papers in my office which it was impossible to get to me by now. It is a quarter to one and it is necessary for me to have those papers to cross examine this witness on them and therefore I would like to have an adjournment.

THE COURT: I will adjourn the matter until two o'clock.

THE COURT: Gentlemen of the jury, the Court will take a recess until two o'clock. Meanwhile you must be extremely careful not to discuss this case among yourselves or with any one else. The time to discuss this case is after you have heard all the evidence on both sides, when the Court submits it to you, and then you will decide it and not before that. So keep your minds open and listen until the end of the case.

Please come back at two o'clock.

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TRIAL CONTINUED:

2 P.M.

ROBERT ROSSIE, recalled for cross examination,  
testifies as follows:

CROSS EXAMINATION BY MR. DUEL:

Q How long have you known Sam Sacco? A About a  
year and a half.

Q You first met him in prison? A The first place I  
talked to him was in Comstock prison.

Q What were you there fore? A Third degree burglary.

Q How manytimes have you been there? A Once.

Q Did you go to see him when you came out? When did  
you come out? A I came out March 9th, 1917.

Q And Sam came out after you did? A Yes,

Q And you saw him after he came out? A Yes s'r.

Q You never had any trouble with him, did you? A  
No sir.

Q Did you make a statement against him at any time in  
connection with this case at Police Headquarters of the  
Third Branch Detective Bureau?

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

THE COURT: He may say Yes or No.

A Yes sir.

Q You did? A Yes sir.

Q After that you were placed in the House of Detention?

A Yes sir.

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Q You are there now? A Yes sir.

Q When you first entered the House of Detention where were you sent? Where was it located? A Over here (witness indicating).

Q Over in the building? beyond the Tombs? A Yes.

Q Overlooking the yard of the Tombs? A Yes.

Q Weren't you accessible to a window that overlooked the yard of the Tombs? A Yes sir.

Q Did you ever throw any messages over into the yard, into the Tombs yard? A No sir.

Q While the prisoners were walking around there?  
A No sir.

Q I show you a board, a piece of a board which has some metal tied around it and I ask you whether you did not throw that over into the yard of the Tombs? A I did not write it.

MR. DUEL: I ask that witness answer the question I ask him.

THE COURT: Strike out the answer.

Q Did you throw that over into the Tombs? A No sir.

Q I show you some writing on this board and I ask you whether you wrote that? A No sir.

Q You did not? A No sir.

MR. DUEL. I ask that this be marked for identification, your Honor.

Piece of wood with piece of metal marked Defendant's

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Exhibit B for identification.

Q After you had been detained in the House of Detention across from the Tombs you were sent up to another prison for detention, were you not? A Yes sir.

Q Where were you transferred to? A 53rd Street.

Q Wasn't Dominic De Lucca confined there? A No sir.

Q Now you are sure that you saw Pagano and Charley Young fire those shots from behind the lunch sign at the corner of the saloon? A I seen Pagano fire shots while Charley Young was with him, but at that time I did not see Sam.

Q When did you see Sam? A I seen Sam after the shots were fired through the drug store.

Q You saw Sam shoot into the drug store? A Yes sir.

Q Didn't you say on your direct examination that you saw Charley fire shots with Pagano? A I don't know what you mean by direct examination.

Q When Mr. McDonald asked you questions? A No sir.

Q You did not? A No sir.

Q Did you see Charley fire any shot at any time?

A No sir. I seen him alongside of the man that fired the shots.

Q How many shots were fired altogether? A There were about four shots fired.

Q Were those four shots fired at the time that you were all standing by the saloon? A We were sitting by

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the saloon, yes sir.

Q Were those four shots all fired by Pagano? A Peter Bianco fired some shots from the street.

Q He was out where? A About four feet from where they stood, from where Pagano stood.

Q What did you do when you first heard the shots fired? A I jumped up and looked around.

Q Then what did you do? A Then I walked into the saloon.

Q How long did you remain inside? A I remained inside about five minutes.

Q Did you come out alone? A Yes sir.

Q Where was Dominic when you came out? A Dominic he was in the drug store.

Q How long before had he gone out? A I don't know. I can't remember how long he went out.

Q How far were you from the drug store when you saw Sam fire the shots into the drug store? A I was about ten feet from him; ten or fifteen feet from him.

Q Were there any other people around? A Yes sir.

Q Many? A I don't know how many were there.

Q Any policemen? A Yes sir.

Q How near? A How near was the policeman?

Q Yes. A A policeman fired a shot at him to get him to stop.

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BY THE COURT:

Q Who do you mean by him? A Sacco.

Q The policeman fired a shot at Sacco? A Yes.

BY MR. DUEL:

Q How long do you know Charley Young? A To speak to Charley Young I know him about five months and a half.

Q You say Charley did not fire a shot that you saw?  
A I did not see him.

Q You know Charley is indicted in this case, don't you, indicted with Sam? A I do not know it.

Q You know Dan Fortunash, don't you? A Yes.

Q I show you a word here and ask you whether this word was written by you? A I got to see the whole letter before I can tell.

BY THE COURT:

Q Did you write that word or not? A I could not say so.

Q Look at that word there. Did you write that word?  
A I could not answer, your Honor.

Q You do not know whether you did or not? A I could not answer, I got to see the whole letter first.

BY MR. DUEL:

Q I show you this letter which begins with, "Well, Danny". and it signed "Robbie", and ask you whether you wrote that note? A (After reading note)

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BY THE COURT:

Q Can you read that? A Yes sir.

Q Do you understand it? A Yes sir.

Q Have you read it? A Yes sir.

Q Did you write that? A Yes sir.

MR. DUEL: I offer it for identification.

Letter marked Defendant's Exhibit C for identification.

MR. DUEL: I offer it in evidence.

MR. McDONALD: No objection.

Letter marked Defendant's Exhibit C in evidence.

Defendant's exhibit C is read to the jury.

BY MR. DUEL:

Q I show you this paper and ask you whether you wrote that? (Handing paper to witness). A (After reading paper) Yes sir.

MR. DUEL: I offer it for identification.

Paper marked Defendant's Exhibit D for identification.

Q I show you another paper and ask you whether you wrote that? A (After reading paper) I don't remember this one. I ain't got my name signed on it.

Q Is that why you don't remember it? A Yes sir. I generally sign my name when I write something.

Q To refresh your recollection, you will observe that this paper signed "Robbie" (Defendant's Exhibit C in evidence)

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is written in the same kind of ink and you say that is your writing? A Yes sir.

Q Also that the writing on there is similar to this paper which does not bear your signature.

MR. McDONALD: I object to that.

THE COURT: ~~Those~~ statements made by you are improper. You may submit the papers to him; he said he wrote and signed one and did not write the other, as I understand it.

MR. DUEL: Is there any objection to this going in evidence, Defendant's Exhibit D for identification?

MR. McDONALD: No objection.

Paper marked Defendant's Exhibit D in evidence.

THE COURT: You may show that this witness by word wither spoken or written, made statements which contradict the evidence he gave here today. That is the only purpose for which it is admissible. If you claim it has that effect it may be received in evidence.

Defendant's Exhibit D in evidence read to the jury by Mr. Duel.

MR. DUEL: I offer this paper for identification.

Paper marked Defendant's Exhibit E for identification.

BY THE COURT:

Q Who is "Charley" that that letter is addressed to?

Q Charley a Young.

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BY MR. DUEL:

Q In other words, you are perfectly willing to testify in favor of anybody that would help you? A I don't know the meaning of that.

Q (Previous question read by stenographer). A All I can say is what I seen, the truth; that is all I know.

BY THE COURT.

Q Were you ever charged with shooting of De Lucca?

A No.

Q You were simply detained as a witness? A Yes sir.

Q And there was no criminal charge pending against you at any time? A No.

Q You did not need any help from any one? A Not in this case?

Q Is there any other charge pending against you?

A No sir, not at the presnt time.

MR. DUEL: I object to that, your Honor.

THE COURT: I merely want to find out whether there is any basis for your question.

MR. DUEL: There are various kinds of help that can be rendered to people.

THE COURT: My questions bring out whether the help that you refer to, if he did ask for it, did not refer to any danger he was in on account of any connection with this particular crime.

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MR. DUEL: I consider that as highly improper and prejudicial to this defendant, and I ask your Honor to disregard our colloquy and your questions.

THE COURT: My questions will be considered by them. The remarks of counsel<sup>and</sup> of the Court are not intended for them and the jury will disregard them. The statements made by the witness to questions to ~~him~~ which his statements are answers will be considered by them.

MR. DUEL: I except to the latter part of your Honor's ruling.

BY MR. McDONALD:

Q While you were confined in Jefferson Market prison did you see Charley Young? A Yes sir.

Q Charley Young is indicted with this defendant?

THE COURT: That is in evidence.

MR. McDONALD: That is all.

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MARGARET DE LUCCA , called as a witness  
on behalf of the People, having been first duly sworn,  
testified as follows: (2135 Second Avenue, N.Y. City)

DIRECT EXAMINATION BY MR. McDONALD:

Q You say you live at 2135 Second avenue? A Yes, sir.

Q And near what street is that? A 110th street.

Q 110th street? A Yes, sir.

Q Are you a sister of Dominick DeLucca? A Yes, sir.

Q The complaining witness in this case? A Yes, sir.

Q And where were you living on the 30th day of August,  
1917? A Well, 110th street, downstairs.

Q Do you know the defendant Sam Sacco? A Yes, sir, I  
saw him.

Q Well, do you know him? A Of course I know him.

Q Well, did you see him on the 30th day of August, 1917?

A I saw him.

Q Did you see your brother there that day, at 110th street?

A Well, my brother was outside, sitting down.

Q Where? A Second avenue window of the saloon.

Q Where was he sitting? A Outside.

Q Your father's saloon? A My father's saloon.

Q That is on the southeast corner of 110th street and  
Second avenue? A Yes, sir.

Q Now, who else was sitting there besides your brother?

A Well, there was Robert Rossie.

Q That is the last witness? A The last witness, and my

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other brother, Tony, and there was Dan, the newspaper fellow from 111th street.

Q And who else? A Joe was standing outside by the window, by the door, that fellow over there (pointing).

MR. McDONALD: Joe Priano.

Q Well, where were you when you saw the defendant? A I was across the street, right opposite the saloon.

Q You live on the opposite side to the saloon? A Right opposite the saloon.

Q On the avenue? A On the avenue.

Q Where was the defendant when you saw him? A I saw him coming from First Avenue on 110th street, and they got in back of the sign, and they came forward.

Q How many were there? A Well, Sam Sacco, Charley Young and Peter Bianco, the three of them.

BY THE COURT:

Q You saw them walking? A They came from First avenue.

Q They were walking on 110th street, on the uptown or downtown side of the street? A The side of the saloon.

Q Which is the downtown side? A The side of First avenue.

Q They were not walking on the avenue when you saw them?  
A They came from First avenue.

Q What street were they on? A From First avenue and 110th street.

Q I did not ask you anything about First avenue. Which side of First avenue, on the uptown or downtown side? A Downtown side.

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Q And in which direction were they going when you saw them first? A I didn't see them when they were walking.

Q But you said you did see them walking? A From First Avenue.

Q In which direction were they walking when you saw them? A They came up 110th street and they turned down Second Avenue.

Q You said you saw them on 110th street. In which direction were they walking when you saw them first? Do you not understand? A I saw them coming first on 110th street.

Q They were on 110th street all the time, you say; is that true or false? A That is true.

Q In which direction were they going on 110th street, when you saw them? A In the direction of the saloon.

Q That is on Second avenue? A Second avenue.

Q They were coming towards the saloon on 110th street, you are sure about that? A Yes, sir.

THE COURT: All right. Now go on.

BY MR. McDONALD:

Q Just tell us what you saw? A They got in back of the sign.

Q What sign is that? A The lunch sign.

Q Where is that lunch sign? A Facing Second avenue.

Q Right on Second avenue? A On Second avenue.

Q Right on the sidewalk near the window? A Near the window of the stand.

Q Of the saloon? A Yes, sir.

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Q Who got behind the sign? A Charley Young and Sam Sacco got behind the sign.

Q You saw them get behind the sign? A Yes, sir, and Peter Bianca was more near the gutter.

Q Just tell us what you saw them do, if anything? A They got in back of the lunch sign; they were looking at the window to see what fellows were standing outside; when they saw all the fellows outside, they took out their guns and started to shoot.

Q Who took out guns? A Sam Sacco and Peter Bianca -- the three fellows tookout their guns, and started to shoot.

Q Where were they shooting? A Right at the first window, and the fellows were at the Second avenue window.

Q Who were they shooting at as they fired their guns?  
A The fellows were all in a bunch.

Q By the fellows you mean your brother, your two brothers and Robert Rossi and Joe Priano? A And Dan was there, too.

Q And Dannie Fortunash? A Fortunash.

Q How many shots were fired? A There was about four shots fired near the saloon.

Q And then what happened? A Then Peter Bianca ran to 110th street and Second avenue, towards 110th street to Second and Third avenue.

Q Ran towards Third avenue, down 110th street? A Yes.

Q What happened then? A Charley Young and Sam Sacco ran to First avenue and 110th street. Then my brother was taken to the drug store.

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Q You saw your brother go across to the drug store? A He was taken to the drug store.

Q That is right across the street from the saloon? A Yes.

Q What happened then? A Then they were all in the drug store. I went over to see what happened. As I ran, I saw an automobile in 110th street, and a chair --

Q Did you hear any more shots fired? A I went inside.

Q Into the drug store? A I was looking outside and the fellows came back and they began shooting.

Q Which fellows? A Sam Sacco and the other fellows; they all came back and started to shoot again.

Q Where were they shooting? A Outside by the drug store.

Q Into the drug store were they shooting? A It was outside.

BY THE COURT:

Q They were standing outside. Did you see in which direction they were shooting? A Right near the drug store, outside.

BY MR. McDONALD:

Q Did you see Sacco with a gun in his hand? A Yes, sir, I did.

Q Then what happened after you heard the shots in the drug store, what happened then? A Well, then I ran in back of one of the counters; I went outside to the back door, and somebody took me home; I don't know what happened after that.

MR. McDONALD: That is all.

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## CROSS EXAMINATION BY MR. DEUEL:

Q When you saw Sam Sacco and Charley Young behind the sign, and Peter Bianca, you saw them draw their guns, which ones did you see fire shots? A Well, I saw Sacco, and I saw Bianca.

Q Did you see Charley Young fire any shots? A The three of them; I didn't watch Charley Young after I saw Peter Bianca.

Q Then you didn't see Charley Young fire? A He had a gun in his hand but I was not watching him.

Q You must have been watching him to see him have a gun in his hand? A (No answer).

Q Where was Peter Bianca standing? A More near the gutter, towards the street.

Q On the sidewalk? A On the sidewalk.

Q But nearer the gutter? A Nearer to the gutter.

Q How many shots were fired in all? A Well, near the saloon only about four shots.

Q How many shots fired over at the drug store? A At the drug store about seven or eight shots.

Q Now what did you do after Peter Bianca ran down toward Third avenue, and Sam and Charley ran over towards First Avenue, where did you go? A I was standing near the building still; I was watching.

Q That is the southeast corner of 110th street and Second avenue? A Yes, sir.

Q How long did you stand there? A I stood there watch-

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ing the fellows; I thought nobody got hurt; I was looking at them.

Q How long did you stand? A I was not very long. Then I saw my brother go over to the drug store.

Q Didn't he walk over there himself? A I don't know whether somebody took him, --

Q Anybody help him, or was he walking alone? A He ran himself and my mother after him.

Q Did he run or not? A He was walking quickly.

Q Then he was not being carried over? A I don't think so.

Q You saw Sam Sacco and Charley Young come back? A They ran on to First avenue on 110th street.

Q That is, they ran towards First avenue? A Towards First avenue.

Q Then you saw them come back? A While I was in the drug store I saw them come back; I was looking outside; there was more shots going on.

Q Outside the drug store --

THE COURT: She said she was looking outside.

Q Where were you when you first saw Sam and Charley come back from First avenue? A I was in the drug store, looking outside of the window, the door.

Q Inside, looking out? A Inside, looking out.

Q Through what window did you see them? A The door what you come in.

Q Through the door, and where were they, Sam and Charley?

A They were outside; right out in the gutter.

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Q Did they fire any shots? A That is when I heard the shots, and they were shooting.

Q Did you see who did the shooting; did they fire all the shots? A Who?

Q Sam and Charley? A The three fellows came back again and started to shoot.

Q Did Peter Bianca come back? A I didn't see Peter Bianca come back; he ran on 110th street to Second Avenue.

Q Now confine yourself to the point where you were, just inside the door of the drug store, looking out, and you saw Sam and Charley and some more shots were fired at Dominick De Lucca inside the drug store? A Inside the drug store.

Q Did Charley fire any of those shots? A Charley did.

Q He did. You will swear to that? (No answer).

Q Did Sam fire any of those shots? A Sam, too.

Q You saw them do that, both of them? (No answer).

Q What made you say a minute ago that a third man came up? Did or did not a third man come up? A Sam Sacco ran on Third Avenue; I didn't see him come back.

Q You didn't see Sam Sacco come back? A Peter Bianca.

Q You saw only two men outside? A Two men outside.

Q How far from you were they when they fired those shots in? A They were on the sidewalk.

Q Were you in front of the door? A I was in front of the door, but inside the drug store.

Q Where was Dominick? A Inside.

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Q Back of you? A Away back of me.

Q So these bullets must have gone past you; didn't they?

A Passed me; everybody thought the bullets came inside and everything started to break inside the drug store.

Q What did you do after that? A After that I was taken in back of the drug store, and somebody took me home then.

MR. DEUEL: That is all.

V I N C E N T      S U C A R A T O      ,      called as a witness  
on behalf of the People, being first duly sworn, testi-  
fied as follows: (347 East 109th street, N. Y. City)

DIRECT EXAMINATION BY MR. McDONALD:

Q How old are you, boy? A Thirteen, going on fourteen.

Q Keep your voice up, will you. Were you on Second avenue and 110th street, on the 30th of August, 1917, about eight o'clock? A No, sir, I was on First avenue.

Q And did you hear anything? A I heard a few shots. Then I ran up Second avenue.

Q Where did you go to? A Near the drug store, in the middle of the crowd there.

BY THE COURT:

Q What street did you run on? A (No answer).

BY MR. McDONALD:

Q You ran through one hundred and what street? A 109th street.

Q 109th street to Second avenue? A Yes, sir.

Q Did you go up Second avenue to 110th street? A Yes.

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Q To the drug store there? A Yes, sir.

Q Did you hear any shots there? A No, sir. After awhile a couple of more shots went off, and so I ran, and I fell down on my knees.

Q Did anything happen to you? A Yes, sir, I was shot in the left leg.

Q In the left leg? A Yes, sir.

Q Did you see who shot you? A No, sir.

Q How long had you been standing at the drug store at that time? A Ten or fifteen minutes.

Q Were you running away? A I heard a few shots; I don't know where I was running, you see, and I ran out in the middle of the street and I fell on my knee.

Q Were you then taken to the hospital? A Yes, sir.

Q How long did you remain in the hospital? A Around three or four weeks; I am not sure.

Q Did you see who the ones were who fired the shots?  
A No, sir.

Q You were just a spectator? A Yes, sir, I wanted to go and look and see what was the matter.

Q How many people did you see -- withdrawn. Did you see anybody firing? A No, sir.

MR. McDONALD: That is all.

MR. DEUEL: No cross-examination. Your Honor, I move that his testimony be stricken out as incompetent, irrelevant and immaterial, as against this defendant.

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THE COURT: I will allow it.

MR. DEUEL: Exception.

THE COURT: Simply corroborates the statement that shots were fired.

MR. McDONALD: That is all it is used for, your honor.

THE COURT: It is part of one transaction. That is the theory on which it is admitted; a continuation of the story.

BY MR. McDONALD:

Q About how many shots did you hear altogether? A First I heard three, and then the second time I heard two or three; I was not sure.

MR. McDONALD: That is all.

OFFICER CARLTON HUNGER, called as a witness on behalf of the People, being first duly sworn, testified as follows: (65th Precinct).

DIRECT EXAMINATION BY MR. McDONALD:

Q You were on post on the 20th of August, 1917, at Second avenue and 110th street? A Yes, sir.

Q In the neighborhood of Second avenue and 110th street? A Yes, sir.

Q About 8:15 p.m. of that date? A Yes, sir.

Q Well, did you hear anything? A Wny, I was standing on the corner, about 8:30, on 109th street, when I heard shots.

Q 109th street and where? A And Second avenue.

Q Tell us what you did then. A I heard several shots

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fired. I looked in the direction of 110th street and I ran quite up there, and there was/a crowd in front of the saloon on the southeast corner. I asked who got shot.

Q Never mind whom you asked. They told you something?

A Yes, sir.

Q And then what did you do? A Way, the crowd told me somebody did the shooting --

THE COURT: Never mind what the crowd told you. What did you do?

A I proceeded towards Third avenue, on 110th street, chasing somebody, running.

Q You ran after somebody? A Yes, sir.

Q Where did you go? A Towards Third avenue on 110th street.

BY THE COURT:

Q Did you get anyone? A No, sir; I could not identify the fellow running, so I still chased him until I lost him in the crowd there; there was a crowd there. I got about half way from Second and Third avenue and they said he made to a hallway in one of the apartment houses --

Q Never mind what the crowd said, to you. As a result of hearing something you went into a certain hallway? A Yes, sir.

Q And did you see the men you were after there? A No, sir.

Q What did you do then? A Proceeded towards therooof.

Q Did you find him up there? A No, sir.

Q Did you come back again? A Yes, sir.

Q Where did you go then? A Back to the scene of the shooting.

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Q Where? A Second avenue and 110th street.

Q What did you do or see there when you got there?

A When I reached 110th street, on the northeast corner, I heard more shots fired, which came from in front of the drug store on the northeast corner.

Q What did you do then? A I ran over in the crowd to see if I could get anybody that was doing the shooting.

Q Yes. Did you get anybody? A No, sir.

Q What did you do then? Did you go in the drug store?

A No, sir.

Q What did you do? A Went on to the signal box at 109th street and Second avenue, and called for help.

Q After calling for help, did you come back again? A Yes.

Q Where did you go? A Back to the drug store; I entered the drug store.

Q Tell us what you saw in the drug store? A I got inside the drug store, there was a young man there that got shot in the arm.

Q Was that the complaining witness, DeLuoca. Stand up, DeLuoca. A Yes, sir. I also saw a young boy in there, about the age of thirteen.

Q Was that Sucarato? Stand up. (Witness Sucarato stands up)

A Yes, sir, and some people drew my attention -- said there was a man across the street --

MR. DEUEL: Never mind what they said.

Q What was the matter with the boy you saw in there? A He

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was shot, to my knowledge, in the hip, or thigh.

Q What happened then? A Why, I left the store. Then my attention was called to a man on the other side that was shot. I left the store and went over, and I looked at this man; he seemed to be unconscious.

Q Did you notice what the condition of the drug store was? A I didn't pay particular attention to it, but there was glass on the floor.

Q Afterwards did you go to the hospital with DeLucca and Sucarato? A No, sir.

Q Did you call up the ambulance? The ambulance was called was it? A An ambulance was sent on the way.

BY THE COURT:

Q Did you arrest anyone? A No, sir.

Q You made no arrests? A No, your Honor.

MR. McDONALD: That is all.

MR. DEUEL: No cross-examination.

MR. McDONALD: I would like to call the doctor, your Honor.

THE COURT: What do you want the doctor for?

MR. McDONALD: To testify to the wounds, sir.

THE COURT: Can you not stipulate, Mr. Deuel, that he was taken to the hospital and Dr. Greenberg treated him, if that be the fact. You do not dispute that he was shot?

MR. DEUEL: No, he has got a scar on his arm.

THE COURT: You do not dispute that, but the question

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is, who shot him and under what circumstances.

MR. DEUEL: That is it precisely, your Honor.

MR. McDONALD: Except that there was taken out of the arm of DeLuca, a bullet which we claim to be a 38 calibre bullet, and that bullets of the same calibre were found in the room of the defendant after the time of the arrest.

MR. DEUEL: In other words, the District Attorney does not want the concession. If he had said that before we would not have that explanation.

THE COURT: He can state a bullet was taken out. The jury will disregard the statement about the bullets found in his room after the arrest.

MR. McDONALD: I only offer this to you as an explanation of why I wanted the doctor.

THE COURT: The doctor can testify as to the bullet being taken out, but he does not know anything about the calibre of the bullet.

MR. McDONALD: But he can identify the bullet that was taken out of DeLuca's arm, and we can show --

THE COURT: Do not say what you can show, because I will not allow you to show anything of the kind. You will find the same bullets in any place in New York; there are probably millions of them.

WILLIAM J. ENRIGHT, called as a witness on behalf of the People, being first duly sworn, testified

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as follows: (Third Branch Detective Bureau).

DIRECT EXAMINATION BY MR. McDONALD:

Q You are a member of the Police Department of the City of New York? A Yes, sir.

Q What is your grade? A First grade detective.

Q And were you so on the 20th day of August, 1917? A Yes.

Q And then did you have occasion to go to 110th street and Second avenue at any time during the evening of that day?

A Yes, sir.

Q About what time did you go there? A About 8:30, or 8:40 in the evening.

Q Just state what you found when you went there? A Why, when I got to 110th street and Second avenue, there is a drug store on the northeast corner, there was a large crowd of people around that drug store, probably a thousand people out on the sidewalk, around the drug store. I went in the drug store and I found the body of a man whom I afterwards learned was Joseph Sacco, dead on the floor, shot to death. I found a boy about thirteen years old by the name of Vincent Sucarato --

Q This witness here? (Stand up, Sucarato) A Yes, sir. He was there and his shirt was turned up here (illustrating) and he was shot there in the hip, probably a little below, through the hip (indicating). Another man named Dominick DeLuca was shot through the arm, right through the arm (indicating). A short time afterwards, why I located, or information came to me

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that a man named Frank Hayti, of 358 East 112th street, had also been shot there, and I went up there and found he was shot through the ankle --

MR. DEUEL: I move to strike out the latter part.

THE COURT: Strike it out. Strike that out about Frank Hayti. We are only concerned with the shooting of DeLuca.

Q What did you do then, afterwards? A Domenick DeLuca told me --

THE COURT: Never mind what DeLuca told you. Officer, you are an old detective, and you know you cannot recite any conversation you had with third persons. You had a talk with Dominick DeLuca.

THE WITNESS: Yes, sir. And from what I heard, I went back to the Third Branch Detective Bureau.

Q Did you see anybody there at the Third Branch Detective Bureau? A Yes, sir.

Q Whom did you see there? A I saw a man named Charley Young, or Charley Archafalo.

Q You interviewed Charley Young? A Yes, sir.

Q And then after you had this talk with Charley Young, did you do anything? A I directed two men to go to 158 West 46th street, and bring to the Branch a man named Samuel Sacco, this defendant here.

Q And did they come back with him? A They did.

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Q Officers Caputo and Quayne? A Yes, sir; they didn't locate him at that address.

THE COURT: You do not know whether they located him or not. You only know that from hearsay.

THE WITNESS: Yes, sir.

THE COURT: They brought him back to the station house?

THE WITNESS: Yes, sir.

THE COURT: If you had any conversation with him, you may state it. Did you have a talk with him?

THE WITNESS: Yes, sir.

THE COURT: With Sacco?

THE WITNESS: Well, I heard him make a statement to the Assistant District Attorney.

THE COURT: Well, anything you heard him say concerning this crime, of an incriminatory nature, you may testify to.

Q Did you view the premises at the southeast corner of 110th street and Second avenue? A I did.

Q Did you see anything there? A Way, yes, sir, I saw the counter, the counter panes of all the show cases inside, the glass was all broken, and out on the floor.

Q Did you then view the liquor saloon? A I did.

Q The outside? A Yes, sir.

Q Did you see anything there? A Not at that time, no.

Q When was it that you next visited the saloon? A The following morning.

Q About what time? A Oh, I think it was nine o'clock.

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Q And did you find anything then? A Yes, sir, there was a bullet hole in the jamb of the door, going into the liquor store, and one down at the basement store.

Q Going into the liquor store? A Yes, sir.

Q Did you take out the bullet? A Well, I didn't.

Q Were you there when it was taken out? A I was not.

Q You were not? A I was not.

Q Now then, at the time you visited the saloon, on the night of the 30th, did you see a chair there? A Yes, sir.

Q Where was that chair? A In the possession of John DeLucca, the proprietor of the saloon, the father of Dominick DeLucca.

Q And is this the chair that you saw there that night (showing a chair)? A Yes, sir, that is the chair. There (indicating) is the bullet hole in the chair.

THE COURT: Did you make any mark on the chair, besides placing the tag on?

THE WITNESS: No, sir, only the tag.

MR. DEUEL: Did you put a mark on?

THE WITNESS: A tag.

THE COURT: You don't call that a mark?

THE WITNESS: I identify that chair.

THE COURT: By the bullet hole?

THE WITNESS: By the bullet hole.

THE COURT: Independently of the tag?

THE WITNESS: Independently of the tag, I identify it.

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MR. McDONALD: I offer it in evidence.

(People's Exhibit No. 5, a chair, formerly marked for identification, now in evidence).

THE COURT: Any cross-examination?

MR. DEUEL: No cross-examination.

THE COURT: Do you remember what time he was brought to the Detective Bureau? Have you any memorandum showing that, officer?

THE WITNESS: Around three-thirty in the morning, between three-thirty and four.

THE COURT: All right.

W I L L I A M     B .     C A P U T O ,     called as a witness  
on behalf of the People, being first duly sworn, testified as follows:     (Third Branch Detective Bureau)

DIRECT EXAMINATION BY MR. McDONALD:

Q You are a member of the Police force of the City of New York, and you were on the 20th of August, and you still are? A Yes, sir.

Q What is your grade? A Second grade detective.

Q Did you arrest the defendant Sacco on the 20th day of August, or the morning of the 21st of August, 1917? A I did.

Q Where did you leave from? A I left the Third Branch Detective Bureau.

Q At about what time? A It was about two a.m. on the morning of the 21st.

Q Previous to leaving the branch at that time, had you

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seen a man known as Charley Young in the Branch? A Yes, sir.

Q And you say then you left the Branch? A Left the Branch Detective Bureau.

Q Where did you go? A We went to 158 West 46th street which is a furnished room house. We made inquiries in that furnished room house for a man by the name of Sam Sacco, the defendant. We learned there that the defendant Sam Sacco had moved that very day to the Hotel Remington, which was across the street, in the same street, West 46th street, and there we made inquiries of the Clerk, if there was a man living there by the name of Sam Sacco. He said, "No, I have nobody here by the name of Sam Sacco. We have here a man by the name of Rossie, who came in here today." We said, "We want to go up in that room." He said, I believe he said his room was upstairs, room 19, to the best of my recollection. We went up there and seen the defendant --

Q Where was the defendant? A In bed. There was a girl in there with him. We told him that "You are under arrest". He said, "What for?" We told him, "For a shooting at 110th street and Second avenue in the early part of the evening of the 20th." He said, "You got me wrong. I was not there." Well, we said, "Come on. You have got to come to the Third Branch Detective Bureau." He said, "All right." We waited there until he dressed, packed all his clothes in a trunk, left word with the agent, with the clerk downstairs, to have

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