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

2887

THE PEOPLE OF THE STATE OF NEW YORK

Before

-against-

HON. JOSEPH F. MULQUEEN,
Judge,

CHARLES ROSSI CHIAFALO, co-indicted
with Peter Bianco and Sam Sacco.

and a jury.

New York, January 11, 1918.

The defendant is indicted for attempted 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: HUNTINGTON W. MERCHANT, ESQ.

MR. MERCHANT: Your Honor, the defendant objects to
proceeding with the trial at this time, and with the
same jury impanelled before which Sam Sacco, a co-de-
fendant herein was tried, on the ground that in the
event of conviction the defendant here must be sentenced
for from five years to life; that Sam Sacco on separate
trial was convicted at this term by a jury selected
from the same panel before which this defendant must
be tried, and that Sam Sacco was sentenced to twenty

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years by your Honor; that by reason of the facts and circumstances it is necessary that this information must come to the knowledge of the jurors sitting on the trial of this defendant. The defendant, therefore, moves that his trial be adjourned until the next term.

THE COURT: Your motion is denied. I think it is unnecessary to state the reason; there will be no juror permitted to serve in the trial of this case who served on the other case, unless as a special request of the defendant. Secondly, no jurors were present during the trial of Sacco except the twelve men who were impanelled, the others having been excused. The defendant's counsel may inquire of each juror as to whether or not he heard anything about the Sacco case, and as to whether or not he will accept the instructions of the Court that the question of Sacco's guilt is not at all concerned in this issue.

MR. MERCHANT: Exception.

The jury is duly impanelled and sworn.

Mr. McDonald opens to the jury as follows:

MR. McDONALD: May it please the Court and the gentlemen of the jury, the defendant Charles Rossi Chiafalo, alias Charles Young, alias Charles Rossi, was co-indicted with Sam Sacco and Peter Bianco, charged with attempted murder in the first degree as a second

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offense, and assault in the first degree as a second offense.

The People will prove by their witnesses that on August 20, 1917, the complaining witness, Dominic De Luca, between the hours of eight and nine o'clock was sitting with his brother and one Robert Rossie outside of his father's saloon, was sitting there with Joe Praino and one or two others. The People will show that this defendant was driving a car, and drove a little distance, passing or coming within sight of the saloon premises where this complaining witness was sitting. The car went a certain distance away, around the block, time enough for them to go around the block, when they appeared again and then stopped at a certain place, a church on 110th Street. We will show then that the defendant and Sam Sacco and Peter Bianco appeared on the scene. Peter Bianco stood in front of the saloon premises and fired shots at the men assembled there, sitting in front of the saloon. We will show that the defendant Young and another was seen firing from behind one of those lunch signs that are usually outside of saloons, a sort of a triangular piece of tin or wood resting upon the ground and extended from the ground three or four feet up. We will prove that this defendant and this other man started to fire at the group of men sitting in front of this saloon. That

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then Dominic DeLuca, the complaining witness was shot in the arm, the bullet entering the forearm, from where it was subsequently removed by a doctor. He sort of dodged into the saloon and then went into the drug store, and there Sam Sacco fired shots.

MR. MERCHANT: I object to any openings to the jury or to the introduction of any evidence as to any attempted crime or alleged crime subsequent to the alleged crime which the District Attorney has just described, as not within the terms of the indictment and is further not within the terms of the bill of particulars demanded by the defendant and ordered by the Court to be served upon the defendant.

THE COURT: He is not on trial for any other crime, but if the People can establish a connection or relation between any other act, and the act complained of in the indictment, they have a right to do that; - not for the purpose of showing he committed any other crime; they may wish to establish a motive for the commission of this crime.

MR. MERCHANT: We are only prepared to meet that for which the defendant is indicted; under the bill of particulars served by the People they limit their crime to about 8:30 in the evening of August 20, 1917, at this particular corner of 110th Street and Second Avenue.

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THE COURT: That is the crime for which he is on trial.

MR. MERCHANT: But we do not come to meet any other crime; he is not so indicted.

THE COURT: I have ruled he is not so indicted, and unless it is proved that he is guilty of committing the act charged in this indictment he will be acquitted. But in the course of the proof it may be necessary to refer to other acts of his, if any, for the purpose of connecting him with the crime charged in the indictment, and therefore your objection is overruled.

MR. MERCHANT: I note an exception, and I would like to note further that it is not part of the res gestae and that it is subsequent to the alleged crime. If part of the res gestae, of course I understand it would be admissible.

THE COURT: I overrule your objection.

MR. MERCHANT: Exception.

THE COURT: When the attempt is made to introduce any evidence that you consider improper, then you may object and I will rule on it at that time, but I do not see any reason now to limit the scope. An opening, of course, amounts to nothing. Facts can only be proved by the witnesses that come on the stand, and no matter what the District Attorney says, the jurors will pay no attention to it except that which is supported on

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the stand/ here. He may outline in a brief way what the People intend to prove.

MR. McDONALD: (Continuing) Of course you understand this is only for the purpose of giving you a general idea of what we intend to prove. We will show that the defendant was one of two or three who came up for the special purpose of shooting at the De Lucas, and that the De Lucas were attacked because they would not shoot one Ciro Morelli and Vinc Morelli. We will show by another witness that he was shot because he would not shoot de Lucas and because the De Lucas would not shoot Ciro and Vinc or Vincent Morelli. In other words, Sam Sacco brought up this defendant himself to shoot the De Lucas, because by reason of some trouble they had had with Vinc and Ciro Morelli, because the De Lucas would not shoot the Morellis, they came up and attacked De Luca while sitting in front of the saloon. Those are the facts in a general way. That gives you a general idea of the whole scheme.

DOMINIC DE LUCA, of 106 East 113th Street, a witness called by the People, being duly sworn, testified as follows:

THE COURT: The Court takes a recess of fifteen minutes.

Gentlemen of the jury, remember during recess that

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the law forbids you to talk about this case among yourselves or with any strangers. You must not form nor express any opinion on the case until you have heard all the evidence on both sides. The evidence is the only thing that concerns you and you will wait until you hear the entire case and when the Court submits the case to you then you will decide it and not before. You must keep an open mind until the end of the case.

TRIAL CONTINUED:

DOMINIC DE LUCA, recalled to the stand:

DIRECT EXAMINATION BY MR. McDONALD:

Q What is your address? A 106 East 113th Street.

Q On the 20th of August, last, did your father keep a saloon? A Yes sir.

Q Where did he keep it? A On the corner of 110th Street and Second Avenue.

Q What corner? A Southeast corner.

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

Q Did you say the southeast corner? A Yes sir.

Q Were you there at any time during the evening of August 20, 1917? A Yes sir.

Q About what time were you there? A I was there between eight, until about half-past eight.

Q In the evening? A Yes sir.

Q Well, about that time where did you go? A I was shot

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and I went in the drug store.

MR. MERCHANT: I move to strike out that answer.

THE COURT: Strike it out, it is not responsive.

Q Did you go outside the saloon? A I was sitting down in front of the saloon.

Q You say that was between eight and half-past? A Yes sir.

Q Were you sitting there with any one? A With my brother, Robert Russo , Joe Praino standing alongside of me and Daniel Fortunash, standing alongside of my brother.

Q You say you were sitting where? A In front of the saloon.

Q Just describe the saloon.

BY THE COURT:

Q Where is the saloon? A On the corner of 110th Street and Second Avenue.

Q Were you sitting at 110th Street side or the Second Avenue side or where? A On the right hand going into the saloon.

Q On which side; street or avenue? A On the avenue and 110th Street.

Q The entrance is on the corner? A No, it is right off the corner, the entrance is on the avenue.

Q Right off the corner? A Yes.

Q And you were sitting near the entrance? A Yes sir.

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MR. McDONALD: I offer in evidence three photographs. Mr. Merchant just looked at them.

MR. MERCHANT: I will concede they are, I will concede they are photographs; let the witness prove the correctness of them, although I think they are the same now the conditions are the same as the conditions were at the time of the alleged crime was committed.

THE COURT: Do you waive the calling of the photographer?

MR. MERCHANT: Yes, but I want him to prove they are correct representations of the scene of the crime.

BY MR. McDONALD:

Q I show you this picture and I ask you if that represents the front view of your father's saloon, at 110th Street and Second Avenue? A Yes sir.

MR. McDONALD: I offer them in evidence.

BY THE COURT:

Q Does that photograph represent the conditions as they existed on the 20th of August, 1917? A Yes sir, only the sign ain't here, and the doors were open.

MR. McDONALD: Subject to those corrections.

BY MR. McDONALD:

Q There was a sign there and the door was open? A Yes.

BY MR. MERCHANT:

Q How about the seats outside the saloon? A The seats were right near the saloon, right near the cellar,

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three chairs, right from the cellar over here to the door (indicating).

Q On the corner side of the door or toward the center of the block? A The other side.

Q Toward the middle of the block? A The right hand side as you go into the saloon.

Q Otherwise that is a correct representation of the saloon as it was the night of the shooting? A Exactly.

Photograph marked People's Exhibit 1 in Evidence.

Q Will you describe the character of the doors that were on that saloon that night? A They were swinging doors.

Q The doors were open or were they swinging doors?
A Swinging doors.

Q Were those swinging doors open or closed? A Closed.

Q You mean by a swinging door a half door which you push against to go in or out? A Yes.

Q And the bottom of the door about 18 inches from the sill of the doorway; that is the bottom of the door was about that high from the level of the floor? A Well, they are up from the ground.

BY MR. MCDONALD:

Q I show you this photograph and ask you if that is a general way represents the drug store and your corner, or the corner of your father's saloon at 110th Street and Second Avenue? A Yes sir, it is just the right picture.

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MR. McDONALD: This takes in the saloon and the drug store, and I offer it in evidence. It takes in both corners of the street.

Picture marked People's Exhibit 2 in Evidence.

BY THE COURT:

Q Does that show the same conditions as they existed that night; the drug store was there that night? A Yes.

Q Is it still there? A Yes.

Q And it is on the opposite corner? A Yes.

Q Was the drug store on the other side of Second Avenue or on the other side of 110th Street? A The same side as the saloon is but on the opposite corner.

Q Was it the opposite side of Second Avenue or the opposite side of 110th Street? A Of 110th Street.

Q It is on the same side of Second Avenue? A Yes.

Q The saloon on one corner of 110th Street and the drug store on the other corner of 110th Street? A Yes.

Q The drug store was on the north corner and on the south corner was the saloon? A Yes sir, exactly.

BY MR. McDONALD:

Q Now you say you were outside there by eight o'clock and you were sitting down? A Yes sir.

Q Who else was sitting down? A Robert Russo and my brother.

Q How long did you remain there? A About half an hour.

Q Did anything happen? A Yes sir.

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Q Just tell us what happened. A A young man by the name of John Pogano and Charley Young --

Q That is this defendant? A Yes, -- stepped from around the sign. John Pogano fired a shot and hit me in the arm and Charley Young fired two other shots and they ran up 10th Street. (110th Street?).

Q Ran where? A Up 10th Street.

Q In what direction? A Second to Third Avenue.

Q They ran towards Third Avenue? A Yes sir.

Q What happened then? A I went inside and I told my father I was shot.

Q Never mind what you told your father. A I went inside for a few minutes and went out to the drug store.

Q What happened then?

MR. MERCHANT: I object to that as subsequent to the commission of the alleged crime, not part of the res gestae, irrelevant, incompetent and immaterial; not within the bill of particulars served, or within the terms of the indictment.

THE COURT: He says this defendant ran away.

MR. McDONALD: Yes sir, but they came back again to the drug store.

THE COURT: Anything that he did in or about that time I will allow him to testify to. Objection overruled.

Exception.

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THE WITNESS: I understood you to say --

BY THE COURT:

Q If you do not understand the question it will be repeated to you. What was the last time you saw Young that night, this defendant. A When he fired the two shots at me.

Q And ran up 110th Street? A Yes.

BY MR. McDONALD:

Q You did not see him again after that? A No sir.

Q Where did you go then? A Into the drug store.

Q Did you see Sam Sacco - A Yes sir.

MR. MERCHANT: Objected to as incompetent, irrelevant and immaterial, not within the issues.

MR. McDONALD: I haven't finished my question yet.

THE COURT: I will allow it.

MR. MERCHANT: Exception please.

Q Did you see Sam Sacco at any time before you saw him at the drug store? A No sir.

Q Did you see Sam Sacco at the drug store? A Yes sir.

Q Tell us what happened there. A While I was going over to the drug store I heard a shot and I fell on the floor, and I seen Sam Sacco fire two other shots at me, running down towards the church, which is about three houses away from the saloon, get into an automobile and went down First Avenue, and I went into the drug store.

Q You say you saw Sam get into the automobile? A Yes

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Q Where was this automobile?

MR. MERCHANT: I move to strike out the answer as incompetent, irrelevant and immaterial.

Motion granted.

Q Where was this automobile? A Right near the church.

MR. MERCHANT: Objected to as incompetent, irrelevant and immaterial.

THE COURT: Strike out the testimony about Sacco.

Objection sustained.

MR. McDONALD: I think we can show there was an automobile there, and take it for what it is worth.

THE COURT: I have sustained the objection.

Q Now you say you were shot in the arm? A Yes sir.

Q Tell us where or show us where. A (Witness showing on right forearm above wrist).

Q Is that where it went in? (indicating) A Yes sir.

Q And is that where it came out (indicating)? A It did not come out, the doctor took the bullet out.

Q Was it taken out there? A Yes sir.

THE COURT: Will you concede, Mr. Merchant, that he was shot?

MR. MERCHANT: I concede there is a wound there on the arm, and I have heard his testimony that it was the result of a shot.

THE COURT: You will have to prove every part of the case then, Mr. McDonald, if he does not make that

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concession.

Q Where was Young when you saw him? A In back of John Pogano, coming from the sign.

Q Just tell us exactly where this sign was? A The sign was right on the corner of the saloon.

Q Do you mean the intersection between 110th Street and Second Avenue right up near the saloon? A Right on the Avenue.

Q On the Avenue? A Yes sir.

Q What kind of a sign was it? A It is a sign four feet five inches high and two feet two inches wide.

Q It was a sign, a lunch sign? A It told you they have lunch, soup, sandwiches and so on.

BY THE COURT:

Q Was it attached to the building or standing separate?

A My father has two hooks on it.

Q Was it attached to the building or standing separate?

A Attached to the building, that is, the frame of the window.

Q How was it attached to the building? A With two hooks.

Q How far did it extend from the building if at all?

A I don't know, your Honor, I cannot exactly tell you.

Q Don't you know the size of the sign; was it flat against the wall? A Yes sir.

Q Or did it extend out from the wall? A No, it did not

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extend out from the wall.

BY MR. McDONALD:

Q What sort of a sign is it? A It is a lunch sign.

Q Is it triangular in shape like that? (indicating)

A No sir.

MR. MERCHANT: Mr. McDonald illustrating as if opening a book at 45 degrees, with the point upwards.

Q Where was Charley Young with relation to that sign?

A Just coming from the back of it.

Q From the back of the sign? A From around the sign.

Q Did you see Peter Bianco there? A Yes sir.

Q Where was Peter Bianco? A Right near the mud gutter.

Q Near the gutter? A Yes sir.

Q Was he facing the saloon? YA Yes sir.

Q And facing toward where you fellows were sitting?

A Yes.

Q You say you were sitting on a chair? A Yes sir.

Q I show you this chair and ask you if that is the chair you were sitting on previous to the shooting? A Yes.

Q Take a look at it, please. A (After looking at it) Yes sir. Here is the way I was sitting on it (indicating)

Q Wait a minute; is that the chair? A Yes sir.

Q What was its condition when you brought it out to sit on on the 20th of August, 1917? A It was in good condition.

MR. MERCHANT: I object to that as incompetent,

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irrelevant and immaterial and I move to strike out the answer.

THE COURT: I will allow it.

MR. MERCHANT: Exception taken.

Q Now then did you see it after you were shot? A No sir. This is the first time, outside of two or three days ago, when Sacco's case went on.

Q I show you it now and ask you if it is in the same condition now as it was at the time you brought it out?

MR. MERCHANT: Objected to as incompetent, irrelevant and immaterial. He has not seen until two or three days ago, since he was sitting on it at the time of the shooting.

THE COURT: I will allow it.

MR. MERCHANT: Exception.

A No.

MR. McDONALD: I offer it for identification.

Chair marked People's Exhibit 3 for Identification.

Q In what respect does the chair differ?

MR. MERCHANT: Objected to, let him state the condition before and now. Also it called for a conclusion..

Question allowed and exception taken.

A The chair is broke on the right side and there is a hole right here(indicating)

BY THE COURT:

Q It was not broken that way and that hole was not in

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it the night you say on it? A No sir.

Q Otherwise it is the same? A Yes sir.

BY MR. McDONALD:

Q Was there anything said before the shooting took place? on the 20th of August? A Yes sir.

Q When was that? A About two weeks before the shooting.

Q With whom did you have that talk? A With Sam Sacco.

MR. MERCHANT: I object to that as incompetent, irrelevant and immaterial.

THE COURT: You havenot connected Sam Sacco with this shooting as yet. He said three men came there, Bianoc, Pogano and this defendant and that they shot at him and that this defendant run away. He does not say what became of the others.

MR. McDONALD: I will connect Sam Sacco .

THE COURT: W hen you connect it I will allow the evidence.

MR. MCDONALD: Your witness.

CROSS-EXAMINATION BY MR. MERCHANT:

Q How old are you, De Luca? A 23

Q Where were you born? A U. S.

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

Q How long have you been in the army? A About three and a half months.

Q That would be, say in October? A September?

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Q Immediately prior to that what was your business?

A Driver.

Q What kind of a driver? A Express wagon.

Q And for whom? A Myself.

Q Did you own it? A Yes sir.

Q How long were you a driver of an express wagon?

A Two years.

Q Did you own the horse, too? A Yes sir.

Q Where did you live in August, 1917? A 106 East 113th Street.

Q With whom? A My wife.

Q How long had your father had a saloon at the southeast corner of 110th Street and Second Avenue? A About two years.

Q Was it your custom during August, 1917, to sit in front of that saloon during the evening? A Yes sir.

Q Now, you say that you were sitting there that evening?

A Yes sir.

Q Between eight and eight thirty o'clock? A Yes sir.

Q And that you saw Charley Young and this defendant at 8:30 then? A Yes sir.

Q How many of you were sitting in front of the saloon?

A Three sitting.

Q You were facing in what direction, west? A West.

Q You were sitting on the Avenue? A Yes sir.

Q That is to say you were sitting on the avenue side

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of the saloon? A Yes sir.

Q The Second Avenue side of the saloon? A Yes sir.

Q Facing towards Third Avenue? A Towards the west,
yes.

MR. McDONALD: I did not offer this plan in evidence,
I will offer it in evidence the diagram showing the
location of the drug store, the saloon, the avenue and
the street.

MR. MERCHANT: I have no objection, subject to
correction. I am told by the District Attorney that
it is approximately correct.

MR. McDONALD: Yes, subject to corrections.

Diagram marked in Evidence as People's Exhibit 4.

Q Now you were sitting at half-past eight on August
20th, 1917, with two companions in front of your father's
saloon? A Yes sir.

THE COURT: He said three companions.

Q Facing Third Avenue? A Yes.

Q Three companions? A Yes, three sitting.

BY THE COURT:

Q And was there one standing? A Two standing.

Q That makes five all told? A Yes.

Q Yourself and four companions, - five all told? A Yes.

BY MR. MERCHANT:

Q What were their names? A My brother, Antonio DeLuca,
Robert Russo, Joseph Praino, and Daniel Portnash.

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Q Which ones were sitting? A Robert Russo and my brother Antonio DeLuca.

Q You were standing? A I was standing.

Q You said your brother, and who else was sitting?
A Robert Russo and myself.

Q Were your chairs near the curb or near the house wall? A Up against the window.

Q Were they on four legs or tipped back? A On the four legs.

Q Were all three of those sitting, sitting south of the doorway? A I don't understand that, about the doorway.

Q Well, they are facing Third Avenue,? A Yes, they faced west.

Q Were you sitting in front of that part of the saloon which is toward 110th Street from the doorway or which is toward 109th Street from the doorway? A Toward 109th from the doorway.

Q In what order were you sitting; who was nearest 110th?
A I was nearest 110th and we were sitting facing Third Avenue.

Q Who was next to you? A Robert Rossie sitting on my left and Joseph Praino standing on my right.

Q Please mark on People's Exhibit 4 in Evidence with a cross where you sitting. A (Witness indicating by marking with a cross)

Q And put your initials next to it. A (Putting his

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initials). D. D. L.)

Q Put a cross where the next man was sitting next to you. A (Witness indicating).

Q That was who? A Robert Rossie,

Q Make an R.R. opposite that to indicate Robert Rossie.

A(Witness indicating)

Q And a cross for the third man. A (Witness indicating)

Q His name was what? A My brother, Antonio DeLuca.

Q Make an A. D. L.. A (Witness indicating by marking A. D.L.).

Q You say there were two men standing? A Yes s r.

Q Who were they? A Joseph Praino and Daniel Fortnash.

Q Will you please indicate where Joseph Praino was standing by a cross. A (Witness indicating)

Q In the doorway? A Yes sir.

Q Please put J.P. near that cross. A (Witness indicating).

Q And who else was there? A Danny Firtnash.

Q Where was Fortnash standing? A Alongside of my brother.

Q Please put a cross where he was. A (Witness indicating).

Q And his initials. A (Witness indicating).

Q Now you have testified that there was a lunch sign which attached to the front of the saloon by two hooks?

A yes sir.

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Q Will you please indicate by a straight line the lunch sign on this People's Exhibit 4. Just indicate the place where it was. A If you give me the picture I will show it better.

Q I ask you to indicate on the plan of you can. A I could not locate on the plan.

BY THE COURT:

Q Don't you understand the diagram? A Yes; in the picture you could see the frames.

Q Please indicate on that if you can where it was. Was it towards 110th Street or towards 109th Street?

THE COURT: Jurors will not express any comment on the evidence or talk while the case is going on; just listen to the evidence.

A Here (witness putting a cross mark).

Q Was it toward 110th Street or towards 109th Street. A It was straight to the Avenue.

Q Was it near 110th Street than you were or nearer 109th Street than you were? A Nearer 110th Street.

Q Can you indicate on that diagram about what part of Second Avenue near 110th Street that lunch sign was, or was it on 110th Street? A Yes sir.

Q Was it on Second Avenue? A Yes.

Q It could not have been on both sides. A No sir.

Q Was it around the corner of 110th Street? A On 110th Street, on Second Avenue.

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Q Right on the corner? A Yes sir.

Q Can you indicate on that diagram where the sign was?

A I marked it.

BY MR. MERCHANT:

Q You marked a cross there. Can you mark a line?

Make a straight line. A (The witness rubs out the cross).

I can show you the bottom, not the top. It stands this way,
it is high.

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BY THE COURT:

Q Does your father still keep that saloon? A Yes.

Q Has he got that lunch sign? A Yes.

THE COURT: Well, we will have it brought here.

BY MR. MERCHANT:

Q Just mark that "L.S." to indicate the lunch sign?

A (Witness marking "L.S.")).

Q On the night in question, August 20th last, when you were sitting there with your companions, what were you doing? A Talking to Joseph Praino.

Q What was Robert ~~Rossie~~ doing? A Sitting down.

Q Talking? A They were talking, my brother, Robert Russo and Danny Fortunash.

Q You were then facing toward 110th Street, were you? A Yes, sir.

Q How long had you been facing toward 110th Street before you saw Pogano? A A few minutes.

Q How long? A About four or five minutes, or three or four minutes.

Q How long had you known Pogano? A I never knew him.

Q When had you seen him last? A The night he shot me.

Q You never saw him until he shot you? A Yes, sir.

Q You met Charlie Young once in Sing Sing? A Yes.

Q How did you happen to meet him there? A My brother and Sam --

MR. McDONALD: I object to that.

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THE COURT: I think it is immaterial. You can ask him how long he knew Charlie Young, if he did know him.

Q You went to Sing Sing to see your brother, did you not? A No, sir.

THE COURT: I will exclude that as immaterial.

BY THE COURT:

Q Did you ever see Charlie Young before that night?

BY MR. MERCHANT:

Q Had you ever seen Young before that night you say he shot you? A Yes, sir.

Q Where? A In Sing Sing Prison.

Q When? A Well, I could not exactly tell you when.

Q About how long before? A I don't remember.

BY THE COURT:

Q Well, can you not refresh your recollection; just think about it? A I can't remember.

BY MR. MERCHANT:

Q A month? A Oh, longer than that; I can't remember when.

Q Six months? A I can't remember.

BY THE COURT:

Q Is that the only time you ever saw him? A Yes, sir.

Q You saw him once in Sing Sing? A Once or twice.

Q You never saw him any other place but in Sing Sing?

A Yes, sir.

Q Until the night of this alleged shooting? A Yes, sir.

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BY MR. MERCHANT:

Q You never knew him except to meet him just once or twice in Sing Sing, when you say, you cannot remember? A Yes, sir.

Q You did know him? A No, sir.

Q You never had any quarrel with him? A No, sir.

Q You never had any quarrel with Pogano? A No, sir, never knew him.

Q When did you next see Charlie Young? A That is the only time I seen him, the last.

Q After you say he shot you? A I did not see him after that.

BY THE COURT:

Q You see him now, don't you? A Yes.

Q Is this the first time you saw him? A I seen him two or three days ago.

Q When did you next see him? A Two or three days ago when Sam Sacco's trial was going on.

BY MR. MERCHANT:

Q It becomes important for me to know. Will you please try and remember how long it was since you had see Charlie Young until August 20th, 1917?

MR. McDONALD: Of course, the form of that question is objectionable.

MR. MERCHANT: Very vital on the question of identification.

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MR. McDONALD: I object to this statement of counsel.

THE COURT: He has given you his best answer.

Q Was it more than a year before August 20th, 1917?

A I can't give you no answer.

Q Do you remember every person whom you have seen once, how long ago you can't say? A No, sir.

Q How did you happen to remember Charlie Young, whom you say you saw once in Sing Sing, just how long ago you don't know, and whom you had never seen before or since except in the excitement of being shot?

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

Objection sustained and exception taken.

THE COURT: I will allow the first part of the question.

Q How do you happen to remember Charlie Young? A By having a good conversation with him up in Sing Sing Prison.

Q What did you talk about up there? A About many things. He also asked me to send him up some stuff, which is such as macaroni, cheese, tomato sauce, salmoni and so on.

Q What else did you talk about? A I don't remember what else we were talking about.

Q That is all you can remember that you were talking about? A Yes, sir.

Q That is not a long conversation. You have told us that in thirty seconds? A No, sir.

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Q Was that all the time you were talking to him in Sing Sing? A No, sir, I stayed there over an hour.

Q You remember definitely that you stayed over an hour?

A Yes.

Q You remember definitely what you were talking about?

A Not all.

Q You don't? A No, sir.

Q Don't remember clearly meeting him there? A Yes, sir.

Q And yet you cannot remember whether it was a month or five years ago? A No, sir.

MR. McDONALD: I object to that; already answered.

THE COURT: He said he could not remember the time.

Q What light was there on August 20th -- surrounding that saloon? A The lamps in the saloon?

Q What lights; what was the condition on the street of the light. Was there any electric light there, street lamps?

A There is only a red light which is a fire box, on the corner.

Q Where was that? A That is right near.

Q Indicate on the chart and put I. L.? A Right about here (indicating by marking I. L.).

Q What other lights were there in the neighborhood?

A The saloon lights, three big lamps.

Q Where were those three lamps? A In the saloon, right in back of the window.

Q Inside of the saloon? A Yes.

Q Will you please indicate by circles where they were?

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A I can't indicate that there.

Q You say it is your father's saloon and he owns it for years? A Yes.

Q You know that saloon, don't you? A Yes.

Q Don't you know approximately about where those lights were? A Not on this sign.

Q They were inside the saloon? A Yes, sir.

Q You cannot indicate at all where they were? A I may if you give me the picture.

Q Were they electric lights? A No, sir, lamps and gas lamps.

Q Was there a window there? A There is three windows there.

Q Three saloon windows? A Yes.

Q Were the three lights in those windows? A There was a light in each window.

Q Then there were lights in the saloon? A Yes, and lamps also. The lamps are right there on the picture.

Q Indicate them please on the chart? A I can't.

Q Can't you show the place about where they were on the chart? A No, sir.

Q Why not?

MR. McDONALD: Objected to.

Q Well, there were three lights in this saloon, which you cannot show us on the chart, which you cannot indicate on the chart? A Yes.

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Q What other street lighting was there? Was there an electric street light? A Not that I know of.

BY THE COURT:

Q The fire box was attached to an electric light? A I told him that.

Q Any other? A Not that I know of.

BY MR. MERCHANT:

Q Was there any kind of light on any one of those four corners at 110th Street and Second Avenue? A On the drug store side there is a big lamp post.

Q Indicate on the chart where that lamp post is, please?

A Right here (indicating).

Q Was that an electric light? A One of them big lamps.

Q One of these high electric lights? A Yes, sir.

Q Incandescent lights? A I don't know what that is.

Q Well, call it electric light and mark it E.L.?

A (Witness indicated by marking E.L.).

Q That is an electric street light? A It is a light, I don't know what kind of a light it is.

BY THE COURT:

Q You are not an expert on lights? A No, sir.

BY MR. MERCHANT:

Q Weren't there windows on the drug store? A Yes.

Q Well, weren't there lights in those windows? A Yes, sir.

Q Then as you stopped your talking, whom were you talking to? A Joseph Praino.

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Q Were you looking over towards this light? A Yes.

Q That is you were facing towards this electric light?

A 10th Street; it is towards 111th Street.

BY THE COURT:

Q Were you looking north or west? A Looking towards 111th Street.

BY MR. MERCHANT:

Q Which way? A Towards 111th Street.

Q And as you were looking towards 111th Street, facing as you say this white electric light, it was lighted that night, was it not? A It was lighted.

Q You saw two men come around the corner, one of whom you never saw before and the other whom you saw once before, and they began to shoot you up? A Yes.

THE COURT: As I recall the testimony, he said he saw him once or twice in Sing Sing.

THE WITNESS: Once or twice.

Q Are you now prepared to say whether you saw Charlie Young once or twice at Sing Sing? A Yes, sir.

Q How often? A Once or twice.

BY THE COURT:

Q Which was it? A In Sing Sing?

Q Was it one time you saw him or twice? A I could not remember, your Honor.

BY MR. MERCHANT:

Q Yet you sat on this corner, talking on this evening

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and facing towards this bright electric light and saw two men come around the corner, one of whom you had never seen before, and the other whom you had never seen but once or twice before at Sing Sing and you say that they began to shoot and you state they were Charlie Young, and who was the other?

A John Pogano.

Q Did you hear the report first? Was that the first you knew, when you heard the gun go off? A The first shot I heard hit me in the arm.

Q The first thing you knew of it was when you were hit in the arm? A Yes.

Q And you did not see Charlie Young until after you were struck in the arm? A I seen them when they came with the gun in their hand.

Q You just said the first thing you knew was when you were hit? A The first shot I was hit in the arm.

Q Whom did you see shoot first? A John Pogano.

Q Where did they come from, Young and Pogano around the sign.

Q Were they standing or running or walking? A Just stepped out from the sign.

Q The sign you said was five foot four, didn't you?
A four foot five inches.

Q What did you first see of Charlie Young, what part of him? A In the back of John Pogano, coming from around the sign.

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Q That is what you saw first? A Yes.

Q You recognized his back, John Pogano's? A No, sir.

THE COURT: He said he saw him coming from the back of John Pogano.

Q What do you mean from the back of John Pogano? Did you see him come around the corner? A Around from the sign.

BY THE COURT:

Q You saw ^{him} come from behind John Pogano? A Right in the back of John Pogano.

Q You mean behind him? A Yes.

BY MR. MERCHANT:

Q He was taller than the sign, wasn't he? The sign was four feet five inches? A Yes.

MR. MERCHANT: Stand up, Young.

(The defendant stands up).

Q Did you see him until he got up behind the sign? A Yes.

Q Then you saw him behind the sign first? A No, sir.

Q Where did you first see Pogano? A When they stepped from behind the sign.

Q Who shot first? A John Pogano.

Q How often did he shoot? A Once.

Q Where did his bullet go, if you know? A In my arm.

Q Then Charlie Young did not hit you? A No, sir.

Q How many flashes or reports being shot off, all told did you see? A Do you mean at first.

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Q At this time when they stepped from behind the sign?

A John Pogano and Charlie Young stepped from behind the sign.

Q How many shots did you hear or flashes did you see?

A Three shots.

Q Did you see the flashes or just hear them? A I seen the flashes.

Q Then you saw three flashes? A Two flashes.

Q But there were three shots fired? A Yes.

Q What heppened to you as soon as you were hit? A I just fell down with my head in the door.

Q Did you fall forwards? A Just this way (indicating).

Q Off the door? A Yes, sir.

Q Flat to the sidewalk? A On my side.

Q On the sidewalk? A Right near the door.

Q Which way were your feet pointing when you fell, towards Second Avenue around towards the saloon? A Sideways.

Q That is up and down the Avenue? A Sideways, 9th and 10th Streets.

Q Just mark here where you lay as you fell; that is, where your head and your feet were and the position of your body? A Right this way (indicating).

Q Will you mark that with "D. D. L., -- falling"? A (Witness indicating).

Q At which end was your head? A Right here (indicating).

Q Towards the doorway? A Yes.

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12 Q Your feet were towards the curb? A Yes.

Q And your head was facing in which direction? A Right out 10th Street, right out to where the red light is.

Q Were you in great pain after the shot? A No, sir.

Q Had you ever had any quarrel with Charlie Young?

A No, sir.

Q Had you any reason to dislike him? A No, sir.

Q Had he any reason to dislike you? A No, sir.

BY THE COURT:

Q So far as you knew? A Not that I know.

(At this point, the lunch sign was brought into court).

BY MR. McDONALD:

Q I show you this sign, and I ask you if that is the sign that was in front of the saloon on the 20th day of August, 1917? A Yes, sir.

Q Is it in the same position now as it was at the time that you saw it on the 20th day of August, 1917, outside of course of the bill of fare, which may have been different?

A No, it is the same way now. That bill of fare was the same way. It was painted on.

BY THE COURT:

Q That is the sign? A Yes, sir.

Q It has not been changed any? A No.

Q It is just as tall now as it was then? A Yes.

Q And just as broad? A Yes.

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Q And it stood on the ground in the same way as it stands there? A Yes.

Q And those are the two little hooks there, -- they are the hooks that hold it to the building? A To the frame of the window.

MR. McDONALD: I offer it in evidence.

Lunch sign marked People's Exhibit 5 in evidence.

Q It stood out from the wall of the building? A Yes.

Q Assuming that the Clerk's desk is the wall of the building, just show how the sign stood out. Was it flat against the wall or did it stand out? A For instance this is the saloon (indicating). This corner is the same as the window, right up this way (indicating).

Q When you say these men came from behind that, they came out behind that way? A Yes.

BY MR. McDONALD:

Q Did you see Peter Bianco there? A No, sir, not behind the sign.

Q You say Peter Bianco did not come from behind this sign? A No, sir, I didn't see him.

Q At the time you saw him, he was on the sidewalk?
A Yes.

THE COURT: He testified he was near the gutter.

BY MR. MERCHANT:

Q Did Peter Bianco fire any shots? A Yes, sir.

Q How many did he fire? A Three or four shots.

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Q Right there on the corner at the same time? A Not on the corner.

Q I am asking you the time you say that Charlie Young fired the shot? A No, sir; after Charlie Young fired them.

Q He was not with Charlie Young at that corner? A I did not see him with him.

Q Or with Pogano at that time? A Yes, sir.

Q He was not with him? A No.

BY THE COURT:

Q How far was Bianco away from Pogano and Young when he fired the shots at you? A He was right in front of the door you might as well say.

BY MR. MERCHANT:

Q Did Pogano fire three or four shots? A Pogano fired one shot.

Q And you say Young fired how many shots? A Two shots.

Q And Bianco fired three or four shots? A Three or four shots.

Q You said you only heard all told two or three flashes, I forget which? A At first, yes, sir.

Q You mean immediately after you say that Young fired the shot, Bianco fired shots at you from the curb? A About five minutes after.

Q You were still lying on the sidewalk here? A In the saloon; coming out of the saloon.

BY THE COURT:

Q As I understand your testimony, you say you got up

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from the chair after getting shot and went into the saloon?

A Yes.

Q And you stayed in there a few minutes? A Yes.

Q When you started to go out, going to the drug store, that is when Bianco fired? A When Bianco fired, yes, sir.

THE COURT: If that is the testimony, I will allow him to state if anyone else fired.

MR. MERCHANT: Exception to your Honor's question.

I object as incompetent, irrelevant and immaterial.

BY THE COURT:

Q Did anyone else fire at you at that time? A Yes, sir, going toward the drug store.

THE COURT: The Jury will determine whether this is part of one transaction or not. I did not understand his testimony on direct. I thought that Bianco and Young and Pogano fired just about the same time, but he says Pogano fired first, Young second, then when he went into the saloon and stayed there a minute or two and he was coming out to go to the drug store to be treated, Bianco fired how many shots ?

THE WITNESS: Three or four shots.

Q Did anyone else fire at you on your way to the drug store from your father's saloon?

MR. MERCHANT: Objection and exception, your Honor.

A Sam Sacco.

MR. MERCHANT: Here he has testified that Charlie

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Young fired a shot and ran away. How can it be pertinent to show three or four other people shot him afterwards?

THE COURT: I will submit that question to the jury as to whether they were acting in concert or not. If Charlie Young was there and did not fire a shot at all, if he was concerned in any act committed by Sam Sacco, he is just as guilty as Sacco. I do not know how much weight the jury will give this.

MR. MERCHANT: I object to that as not within the indictment. It is not within the bill of particulars. I am not prepared to meet that. This was after the transaction. It is not part of the res gestae.

THE COURT: The Court rules that that is a question for the jury to determine, whether it was a separate assault or part of the assault alleged to have been committed by Young.

MR. MERCHANT: We are not prepared to meet any act subsequent to such charges as are mentioned in the indictment.

THE COURT: The Court rules that that is a question for the jury to determine. If the jury determines that it was a subsequent and independent transaction then they will not give any weight to it in determining the guilt or innocence of this defendant. If two or more people were concerned in an attempt to kill this man, they are all equally guilty, whether they were there present

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or not, or whether they fired shots or not. Lieutenant Becker was put to death for killing a man when he was miles away from the place where the man was killed. The law is that if he aided, abetted or advised, or was in any way concerned in the killing, why he is just as guilty as the man who fires the shot. So for the purpose of these gentlemen of the jury determining whether or not he was concerned in any shooting by Sacco at that time I am going to allow this in evidence. The Court of course expresses no opinion on the fact. The Court merely submits to you whatever evidence is presented, for your judgment and determination. You are the sole and exclusive judge of the facts. I merely say that the testimony is competent or legal and proper.

MR. MERCHANT: I except to your Honor's instructions to the jury, on the ground that there is no evidence of a conspiracy here. Sam Sacco and Bianco are not in any way tied up by the slightest evidence with this defendant, and I also except to your Honor's reference to the Becker case.

THE COURT: That is the best illustration of the law that came to my mind at that time. I think the jurors understand that clearly.

MR. MERCHANT: Exception to that.

THE COURT: There is no evidence as to a conspiracy, but that may be supplied. When I ruled in the beginning,

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I did not understand the testimony of this witness, when I excluded the testimony about Sacco.

MR. MERCHANT: Exception on the ground there is no evidence of a conspiracy, and the impression created in the mind of the jury cannot be expunged.

THE COURT: You are protected by my ruling. My desire is to have them receive this evidence with the full understanding of the conditions under which it is received. I told them distinctly that if it is not proved to their entire satisfaction that Sacco and this defendant were acting in concert at that particular time when Young is alleged to have fired the shot, why Young is not bound by any act of Sacco's, but if it does appear that they were acting in concert, then even if Young had not been there and had not fired a shot, under the ruling of the Becker case he would be liable for the acts of Sacco, acts tending to carry out a corrupt conspiracy. I do not decide that there was a conspiracy, or that Young or Sacco were concerned in it, but I am merely allowing in this testimony.

MR. MERCHANT: I wish to introduce at this time the bill of particulars by the District Attorney, which I think is very pertinent on the question. It limits this crime to the particular time and place. I offer your Honor's order and the bill of particulars served by the District Attorney.

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Order marked Defendant's Exhibit A and bill of particulars marked Defendant's Exhibit B, *in index.*

BY MR. McDONALD:

Q You say Sam Sacco shot at you? A Yes.

Q How many times did he shoot? A Three times.

MR. MERCHANT: Objected to as incompetent, irrelevant and immaterial. There is no evidence of any conspiracy here, and I take an exception.

Q Did you have any talk with Sam Sacco previous to the 20th of August, 1917?

MR. MERCHANT: Objected to as not binding on the defendant.

THE COURT: I will allow it.

MR. MERCHANT: Exception please.

A Not on the 20th day of August.

Q Before the 20th day of August, 1917? A Yes.

Same objection, same ruling and exception.

Q Where was it you had this talk with him? A In the College Inn Cabaret, 125th Street West.

Q How long have you known Sam Sacco? A For years, about ten years. I met him at the College Inn about three weeks before.

Q About three weeks before the 20th of August you met him in the College Inn at 125th Street and where? A Near 8th Avenue.

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

Q Tell us what was said?

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MR. MERCHANT: I renew my objection. It is very prejudicial..

THE COURT: I will allow it.

MR. MERCHANT: Exception, please.

THE COURT: If it is not connected with the defendant they will not consider it, and it will not be prejudicial, but if it shows a conspiracy to kill this person,, why, it will be very proper, and proper to admit it because he is bound by any act of Sacco's, if he was in conspiracy with Sacco to kill this person. Of course, if there is no evidence of that the jury will not find it as a fact. The Court does not find any facts.

A We went downstairs in the toilet.

Q Who was that? A Me and Sam Sacco, and he asked me to kill Vinc Morelli and Ciro Morelli, two brothers, and I told him that I would not do it. So somebody come walking down the toilet and we went upstairs. So then we went downstairs again and he told me, Sacco told me to come downstairs again. We went down again and he told me that it was passed word over from Brooklyn by a fellow named Andrea that me and my brother should kill Vinc Morelli and Ciro Morelli. I told him, "For what reason, you know I am working; I would not do such a thing". So he said, "He brings ice into your father's saloon, and you are the nearest one that can get to him and kill him". I said I would not do such a thing. So we went upstairs and the third time he took me and my brother downstairs, told us to

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come down. We again went down and he asked my brother to put Vinc Morelli and Ciro Morelli --

BY MR. MERCHANT:

Q Was your brother present there at the time? A Yes. He asked me and my brother to kill Vinc Morelli and Ciro Morelli because we were the nearest, the ones that could get nearest to them, so my brother said, "No, I would not do such a thing". He said, "Well, if you don't do it you will be killed", and he was trying to talk to us and tell us that if we did that he would be the big king in Harlem and would make a lot of money, and if there was a chance of getting pinched, there was a barrel of money in back of us, that we would get out of it, and not to be afraid. My brother said, "If you want to be a friend of mine don't talk to me like that". So we went upstairs and sat down drinking.

MR. MERCHANT: I move to strike out all this testimony as incompetent, irrelevant and immaterial and not within the pleadings to the indictment, - not within the bill of particulars. It is so prejudicial that it cannot be expunged from the minds of the jury. It does not connect this defendant in any possible way. I also move that the jury be instructed to disregard it.

THE COURT: Motion denied.

MR. MERCHANT: Exception.

MR. MERCHANT: I move to withdraw a juror and to have a mistrial declared on the ground of this evidence being

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admitted.

Motion denied and exception taken.

BY MR. McDONALD:

Q Did you have any further talk with Sacco? A No sir.

Q Not before the 20th of August? A Yes sir.

Q After Sacco fired at you, what did you see Sacco do then?

A Run down Tenth Street near the church where there was a big black car standing.

Q An automobile? A Yes.

BY THE COURT:

Q Did you see that yourself? A Yes sir, I seen that myself.

BY MR. McDONALD:

Q This car was between what avenues? A First and Second, three houses away from the saloon.

Q At a church? A Near the church.

Q On 110th Street? A Yes.

Q What happened after you got into the drugstore?

MR. MERCHANT: I renew my objection on the same ground, to protect my rights and my client.

THE COURT: He said he saw Sacco run away. I will allow that question. It is for the jury to say whether it is part of the same transaction or not.

MR. MERCHANT: I object on the same ground and I take an exception.

THE COURT: Yes, you have an exception. If you say you object on the same grounds I will make the same rul-

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ing and you have an exception.

A I went into the drugstore and a young man came from behind the counter and started to bandage my arm and I heard six or seven more shots, and he ran one way or the other, and others in the telephone booth and glasses were broken, that is all I know. Then the doctor came in, about a half an hour after and bandaged up my arm and put me in an ambulance and another young fellow about thirteen years old came walking into the drugstore shot in the thigh and they put him in the ambulance with me.

THE COURT: Never mind about the other fellow.

Q You were taken to the ambulance with another person?

A Yes.

Q Where were you taken to? A I was taken to the Harlem Hospital.

Q How long did you stay there? A I stayed there about three or four days.

Q What doctor treated you? A If I ain't mistaken it is Dr. Greenberg took the bullet out of my arm.

Q Did you see who fired the other shots while you were in the drugstore? A No sir.

MR. McDONALD: That is all.

THE COURT: We will postpone any further cross-examination till twenty minutes after two.

Gentlemen of the jury, you will please remember the rule which forbids you to discuss this case with anyone

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and that also means that you must not talk about it among yourselves. There must be no discussion among you about this case until you hear all the evidence on both sides. You must keep an open mind on the question of the guilt or the innocence of the defendant until the time comes when the Court says you must decide it, that is at the end of the case after the Court gives it to you. So keep your minds open on that point until then. That is the time to decide it and not before that. And do not visit the scene of this alleged crime. Remember that you are not to go to 110th Street and look at it yourselves. You must decide this case on the testimony produced here before you. Now, please be back at twenty minutes past two.

Recess.

A f t e r n o o n S e s s i o n .

Trial continued.

D O M I N I C D E L U C A, recalled to the stand:

BY MR. McDONALD:

Q From the time that you heard the first shot until the time that you heard the last shot fired that night, about how long a time expired? A Just a few moments. I went right in and told my father that I was shot.

Q Answer the question, please. A few minutes. A A few moments, a few minutes.

CROSS-EXAMINATION BY MR. MERCHANT CONTINUED:

Q By a few moments do you mean three or four minutes or

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fifteen or twenty minutes? A A few minutes. I did not have no watch to look at a watch.

Q After you were shot did you go into the saloon? A Yes.

Q How long were you in there? A A few minutes and walked right out.

Q What did you do while you were in there? A I told my father I was shot.

Q Did you come out immediately then? A Yes sir.

Q You don't know how long it was between the shooting of the first and the last shot, except you say it was a few minutes? A Yes sir.

Q How long have you known Sam Sacco? A About ten years.

Q Do you know him pretty well? A Yes sir.

Q He lived in the same neighborhood with you? A No sir.

Q You used to meet him around at clubs? A No sir.

Q How did you happen to meet him there; how did you happen to meet him there. When did you used to see him? A In 109th Street, in a cafe.

Q And during this period of ten years you used to meet him there quite often? A Yes sir.

Q Every week or two? A Every day.

Q Do you know his friends, too? A Some of them.

Q You used to go around with him also? A No sir.

Q Just used to meet him in this cafe and talk to him?

A Yes sir.

Q That is the same cafe where you had the talk you have

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spoken of? A No sir.

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Q Where was that? A In the College Inn, in 125th Street and Eighth Avenue.

Q When were those conversations, what days? A Probably on a Saturday night.

Q What night? A On a Saturday night.

Q How long before the time when you were shot? A About three weeks.

Q Did you see him after that Saturday night again until you saw him the night you say you were shot? A No sir.

Q How long were you with him that evening, do you think?
A To about one o'clock.

Q From when, to one o'clock? A From about eight.

Q Was there anyone else there at these conversations?
A Yes sir.

Q Who else? A My brother.

Q At all three conversations? A No sir.

Q Most of the time he was trying to get you to do this, to shoot somebody, wasn't it? A Yes.

Q Who was it he wanted you to shoot? A Vinc Morelli and Ciro Morelli.

Q How did he open the first conversation when he asked you to shoot these men? A He told me that he was sent over by the Brooklyn fellows, one of them named Andrea.

Q Had he often talked to you about those fellows? A No sir.

Q Did he say he would give you a gun to do it with? A Yes.

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Q You say the first conversation took place and then you went downstairs? A We were downstairs.

Q When the first conversation ended where did you go?
A Upstairs at the table.

Q Was that where the second conversation occurred?
A No sir.

Q Where did the second occur? A Downstairs in the same place.

Q Did your brother go down with you the second time?
A No sir.

Q He was not there at the second conversation? A No sir.

Q He was there at the first? A No sir.

Q At neither conversation? A No sir.

Q Was he there at the third one? A Yes.

Q Did Sacco ask your brother to do this shooting, too?
A Yes sir.

Q Did anybody ever ask you to shoot a man before, to murder a man? A No sir.

Q And yet you have known Sacco for ten years? A Yes sir.

Q And he picked you out and you talked five hours to him while he was asking you to murder two men. Did it take you five hours for you to make up your mind? A No sir.

Q How soon did you make it up? A We went down three times. We were down there about twenty minutes at a time.

Q Then it took you three times twenty minutes to decide definitely that you would not shoot the two men? A Yes sir.

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MR. MERCHANT: That is all.

J O S E P H J. P R A I N O, of 231 West 108th Street, called as a witness on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McDONALD:

Q What is your business, Mr. Praino? A Private detective.

Q By whom are you employed? A Dominick Riley.

Q The Dominick Riley Detective Agency? A Yes sir.

Q Do you know the complaining witness, Dominic DeLuca?

A I do.

Q Do you know the defendant Charles Young? A I do.
witness

Q Did you see the complaining/on the 20th day of August, 1917? A I did.

Q Where was he when you saw him? A In his father's saloon, 110th Street and Second Avenue.

Q About what time was it on that day that you saw him?

A About six o'clock that evening.

Q Where was he when you saw him, inside the saloon? A Yes.

Q Did he remain there any length of time? A Yes.

Q Did you come outside the saloon any time that evening?

A Yes sir.

Q About what time did you come out? A About eight o'clock that evening.

Q Did anyone come with you? A Dominic and Tony and Bobbie

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Russo, and another fellow they called Danny.

Q What did you do and what did you see these other men who came out with you do? A Dominic was sitting on a chair and I was standing alongside of him and his brother and the rest were standing against the rail of the saloon.

Q How long were they sitting there before anything happened? A About a half hour or three-quarters of an hour.

Q Now just tell us what you saw happen? A Well, about half-past eight or a quarter to nine, -- no, about half-past eight I noticed a big black automobile coming ^{from the} west through 109th Street, crossing east towards First Avenue, and I left the boys standing there near the saloon and I walked to 109th Street on the northeast corner of Second Avenue and I noticed the big black automobile stop in front of Willie Willie's café and there I recognized Sam Sacco.

MR. MERCHANT: I ask that that part where he recognized somebody be stricken out as not responsive.

THE COURT: I will allow it to stand.

MR. MERCHANT: Exception, please.

A (Continued) Sam Sacco and Charles Young leaving the automobile, and there was two or three others in the car.

BY THE COURT:

Q Who is Charles Young? A This defendant, - and entered this Willie Willie's café.

THE COURT: Mr. Merchant, I would suggest you tell your client not to make any comments on the evidence. He

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must keep perfectly quiet.

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A (Continued) Then I returned back to where the boys were standing and I stood there, and said, --

Q You said something to the boys? A Yes, I said something to the boys.

Q What happened then? A About fifteen or twenty minutes after I heard some shots coming from the direction of 110th Street towards us, and there I seen crouching behind a sign, a lunch sign, this Sam Sacco and this Charles Young, firing towards us. Then I heard another shot coming from the direction of the street towards us and I noticed this Peter Bianco, who I got in Albany when he was wanted for murder previous to that --

THE COURT: Strike that out, the reference to a previous matter.

BY THE COURT:

Q You noticed this man Peter Bianco do some shooting?

A Yes sir, and in the meantime this Dominic said, "I am shot", and as he said that I gave chase to Peter Bianco, running towards Third Avenue in 110th Street, between Second and Third Avenue. When I reached about half the block he darted in some building and I returned. As I returned I went to the crowd and there was still shooting going on, and as there was shooting going on I noticed Joe Hurley make for his hip pocket and as he done that Dominic's brother shot this Joe Hurley.

MR. MERCHANT: I object to this.

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THE COURT: strike out about this man making for his hip pocket.

Q Did you see the automobile again that night? A No sir, not that night.

Q Did you see Young again that night, or Sacco? A At the Third Branch.

Q What, if anything, did you see Young do that night besides, as you say, crouch behind the sign? A He was shooting at us.

Q Is that the sign (pointing to People's Exhibit 5 in evidence)? A Yes.

BY MR. McDONALD:

Q You say that is the sign that was standing on the corner? A Yes.

Q You say you did not see Young again after that? A Not until he was brought to the Third Branch.

BY THE COURT:

Q When was that, the same night? A During the morning.

Q The next morning? A Yes sir.

MR. McDONALD: That is all.

CROSS-EXAMINATION BY MR. MERCHANT:

Q What is your name? A Joseph J. Praino.

Q What is your last name? A Praino (spelling P-r-a-i-n-o).

Q What is your business? A Private detective.

Q With what agency? A Dominick Riley Detective Agency.

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Q How long have you been with them? A About three or four weeks.

Q Before that what was your business? A Same business for ten years.

Q With whom were you before you went to Dominick Riley's?
A The Manhattan Detective Agency.

Q How long since you left them? A What do you mean, how long since I left what? I do not quite understand the last question.

Q When did you leave the Manhattan Detective Agency?
A I think it was in June.

Q Of this year? A No, the last year.

Q 1917? A June or July.

Q What were you doing in August, 1917? A I was working for myself.

Q What line? A Investigating for different attorneys.

Q As detective? A No sir, as an investigator.

Q How long have you known Sam Sacco? A Quite a while.

Q How long? A Probably three or four or five years; I don't recollect.

Q Where did you first meet him? A In the neighborhood.

Q What do you mean by the neighborhood? A Of where he lived.

Q Where did he live? A I knew he had a brother living in 110th Street.

Q Where did he live? A 229, something like that, East

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110th Street. I am not quite sure of the number.

Q Did you live in that neighborhood? A I lived in 108th Street for the last twenty-five years.

Q So you know Sam Sacco well? A Yes sir.

Q Are you a friend of his? A Yes sir.

Q A friend of his for four or five years? A Yes sir.

Q When did you first meet the complaining witness, Dominic DeLuca? A I went to school with the two brothers.

Q You have known them for a number of years? A Yes sir.

Q Now, coming down to the night of August 20th last, you say you got to Dominic's father's saloon about six o'clock in the evening? A Yes sir.

Q And coming now to the time of the shooting, about eight o'clock at night, who were there at the saloon or outside of this saloon? A The two DeLucas, this Danny and this Bobbie and I.

Q Who is Danny? A Danny Fortunash.

Q Fortunash? A Yes, Fortunash.

Q What does he do, if you know? A He sells papers in 111th Street. He has a newsstand there.

Q Where is he now? A He ran away.

Q He ran away? A Yes sir.

Q Do you know why? A From what I know, that this Cherley Young gave him \$100 to go away.

Q He told you that, did he? A Fortunash told me that himself, yes.

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Q Do you know where he is? A To my recollection I think he is in Albany, if I am not mistaken.

Q Have you got his address? A No sir.

Q Can you get it for me? A Not I, no.

Q Mr. Praino, about eight o'clock who was there, Fortunash, you and Dominic and his brother and who else? A This Bobbie.

Q What is his last name? A I think Russo or Rossi; I don't know for sure. I know he is held in the House of Detention now.

Q Russo or Rossi? A Something like that.

Q How long do you know him? A I know him for about a year or so; a little over a year. I am not quite sure.

Q He you say is in the House of Detention? A As far as I know he is supposed to be there.

Q Well now, were you there at the time you say the first shooting occurred? A Yes.

Q At the time of the first shooting who was in front of the saloon? A We all were standing there. Dominic was sitting down on a chair and I was standing up the step of the saloon in the doorway there; they had some chairs there then.

Q You were in the doorway? A No, right alongside of that little window. I was talking to Dominic and all at once I heard shots.

Q Dominic was sitting down and you were in the doorway talking to him? A Yes sir.

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Q Who was next to Dominic? A I think his brother, if I am not mistaken.

Q And he was standing up? A No, they were sitting down on the rail. There is a rail there.

Q What is Dominic's brother's name? A Tony.

Q Antonio; what kind of a rail is that? A An iron rail, about that high from the ground (indicating about three feet).

Q How high up is that rail from the street? A I should judge about two or three feet.

Q Can you point out the place on People's Exhibit 1, what you mean by the rail. Mark it with an "R", if you will?
A This here in here (indicating).

Q Do you mean this woodwork or do you mean the base of this window? A The woodwork which comes out; it is an extension.

Q What is that woodwork? A That leads into the basement, down into a cellar. This cellar goes down underneath the saloon. Here is where I was standing (indicating). Dominic was sitting right there (indicating). The rest of the boys were all along there (indicating).

Q Then came you and next to you came Dominic and next to him was Tony? A I think; I am not positive.

Q And next to Tony was who? A All the rest were standing there together.

Q You say you saw Sacco and Charley Young? A Yes sir, be-

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hind that sign there.

Q Whom did you see first, Sacco or Young? A I noticed the two of them blazing from their revolvers towards us.

Q Did you see Pogano? A I don't know who he is.

BY THE COURT:

Q The man whom you pursued; you said you pursued a man, did you not? A Yes sir, by Bianco.

BY MR. MERCHANT:

Q Oh, I don't mean Bianco; I mean Pogano; did you see him? A No sir.

Q Did you see them fire the shot? A Yes sir.

Q Or did you hear it first? A I first heard one shot and then as I looked they were blazing still at us.

Q Did any shots hit you? A No sir; thank God they did not.

Q How long is it since you had seen Charley Young before this? A I don't recollect how long. But I don't know him to talk to.

BY THE COURT:

Q Had you ever seen him in your life before that night? A Yes sir.

BY MR. MERCHANT:

Q About how long before? A I noticed him on Broadway several times. I seen him at 109th Street and Third Avenue with Sam Sacco.

Q When did you see him on Broadway? A About a month or

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so ago, I am not sure.

Q Oh, you mean since this shooting? A No, before the shooting.

Q Where did you see him with Sam Sacco? A At 109th Street and Third Avenue, northeast corner.

Q When? A Before the shooting also.

Q Those are the only times you ever saw him before this night, August 20th? A Yes, that is the only time I ever saw him.

Q How did you know him on Broadway? A Why, Tony DeLuca, - I was with him on Broadway one day and he was across the street and he said, "There is a friend of mine on the other side". I said, "Who is he?" He said, "Charley Young".

Q He was across Broadway? A Right at 44th Street and Broadway.

Q You said you saw him across Broadway? A We were walking across and he said, "There he is, right on the other side", as we were crossing towards that direction.

Q Where did you see this automobile? A Coming through 109th Street from west.

Q Running westerly? A Running easterly.

Q You were talking most of the time while you stood in the doorway, to Dominic? A Not all the time; the way I was standing I could see to 108th Street and Second Avenue.

Q Are automobiles more or less frequently passing up in that neighborhood? A Very few.

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Q Very few automobiles? A Yes sir.

Q Isn't 110th Street a car street? A Yes.

Q The next main thoroughfare below 125th Street? A Not there. It is a very slow traffic street, but the trolleys are there.

Q There are few automobiles pass there? A Past Second Avenue.

Q What happened to Dominic at that time that he was shot? A I don't know because I was running after Peter Bianco.

Q Which way did you run; towards Third Avenue into 110th Street, Third Avenue? A Yes sir, because he ran through the block and darted into a hallway there.

Q You ran west, then? A Yes sir.

Q You mean west on 110th Street? A Yes sir.

Q How long was it between the time you saw the automobile and you came back to this saloon before the shooting?

A Not even two minutes.

Q Did you say anything to Sacco? A How could I talk to Sacco?

Q You said you saw Sacco at the automobile? A Yes, leaving the automobile and going into this cafe, but I was on the corner.

Q Did you say anything to him? A No.

Q Did you say anything to Young? A No sir, but I said something to the boys when I went back there.

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Q So you don't know what happened after Dominic fell; did he fall, if you know? A I don't know that because I chased after this Petie through the street.

Q Those are the only times you ever saw Young, however?

A Yes sir.

Q What name did you know him by? A Charley Young.

Q Where did you see this automobile first? A Coming through 109th Street.

Q Could you see who was in it? A I noticed at the time when it was passing by there were four or five people in it.

Q That was a block away? A Yes.

Q Over a block away? A The reason I know this car is -- you

Q I did not ask you that. I asked/if it was over a block away? A An avenue block, yes.

Q Over a block away? A Yes.

Q Because you had to go across the street, and then a block? A Yes.

Q Did you notice who was in it? A Until it stopped near the cafe, then I noticed the two of them coming out with the others.

Q Where is the cafe that you say you saw Sacco going into? A About three or four buildings from 109th Street towards going east, on the south side.

Q Of 109th Street? A Yes.

Q You cannot see that cafe from Dominic's saloon? A No.

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I walked up to the corner when this car passed by.

BY THE COURT:

Q You say you could not see it from Dominic's saloon?

A No.

Q And you did not recognize anyone in the car when you first saw it, did you? A No sir.

Q And you knew before you went to 109th street that there was a saloon down there, three or four doors up?

A A cafe, not a saloon.

Q Well, a cafe, - didn't you? A Yes.

Q And you knew that people went to that cafe from time to time, didn't you? A Yes.

Q And you knew that automobiles went there from time to time? A No sir, never.

Q You never saw an automobile going through 109th Street east? A Oh yes, a lot of automobiles go through there.

Q You said very few automobiles went through there?

A Through Second Avenue, I said.

Q Which is correct now? A Going north and south on Second Avenue, very few automobiles go through there.

Q That is not what you said. You could not recognize anyone in the automobile, could you? A Not when it went through the street, no.

Q Why did you walk from Dominic's saloon down to 109th Street? A Because I noticed this automobile for about a week coming around with them men in it.

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Q You could not recognize the men, could you, you just said? A Not at that particular moment, but I recognized the car.

Q You said you saw it with those men in it and you said you could not recognize the men? A Not at that night, no.

Q So that you don't know whether they were the same men or not? A They were the same men, when I seen them leave the automobile and enter this cafe in 109th Street.

Q I did not ask you that. I asked you, from 110th Street could you see that they were the same men? A No, not very well, but you could see four men.

Q What kind of a car was it? A I don't know the make myself. It was a seven-passenger black touring car.

Q In the usual form of a seven-passenger black touring car? A Yes.

Q Nothing unusual about the car, was there? A No.

Q An ordinary black touring car? A Yes.

Q You saw this car pass where you could not recognize the men and you say there was nothing unusual about the car? A Yes sir.

Q What led you to walk down the block? A If you want me to tell you why I will tell you why. The reason was because this automobile made about seven or eight trips previous to that, to shoot these men down, and I noticed these men in that car.

MR. MERCHANT: I move to strike out the answer.

THE COURT: That is the reason he gives; you asked

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for it.

Q You went down to look at it? A Yes sir.

Q Is that the reason you went down to look at it? A Yes.

THE COURT: Your motion to strike out is denied, Mr. Merchant.

MR. MERCHANT: Well, I will not except, your Honor.

Q You did not recognize those men, did you, until you went down there? A I seen them leaving the machine to enter this cafe.

Q But you did not know who the men were until you got down there, did you? A No sir.

Q Therefore you don't know that they were the same men that you saw in the car, that you say had come there six or seven times to shoot the people up? A Then I knew they were the same men.

Q You did not know them? A Not until I seen them leave that machine.

Q Well, where did you see them in the car before? A On several trips they made before that.

Q When? A In the evenings during the weeks previous.

Q When? A I said seven or eight trips before that.

BY THE COURT:

Q Can you specify the evenings? A About two weeks previous.

Q Within two weeks? A Within two weeks.

Q What do you mean by several times? A Every night they would come around to see if the coast was clear.

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Q For two weeks? A Yes sir.

BY MR. MERCHANT:

Q Where did you see them during every night for two weeks? A Making the turns from 9th Street through 10th Street and Second Avenue, around in a circle like.

Q The same men in the car every night? A Not all the same men. Only two I recognized, Charley Young and this man Sacco.

Q And they were in there every night for two weeks coming around from 110th Street and Second Avenue into 109th Street?

A Yes, at the times I seen them.

Q You said every night for two weeks? A I said the previous two weeks, they were coming around at night for about seven or eight times, during those two weeks.

Q Where were you when you saw them these seven or eight times? A Always at the saloon door.

Q Outside? A Yes sir.

Q Well, did you notify the police that these men were coming up there to shoot you up? A Yes, the police knew it for about three or four weeks before that.

Q Did you notify them? A On several occasions I did.

BY THE COURT:

Q You mean as to this particular undertaking? A Yes.

BY MR. MERCHANT:

Q Whom did you notify? A Why, Captain Jones and DeMartini and Enright.

Q Who was Enright? A Captain Enright.

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Q Is he up in that neighborhood? A He is in the Third Branch, yes sir.

Q And yet you continued to sit outside this saloon every night? A Yes sir.

Q Did these other men see this car with the men in it pass through seven or eight times during the preceding two weeks?

A I presume they did.

Q They spoke of it? A Yes sir.

Q Talked it over among themselves? A Yes, because a few nights before the shooting went on --

Q I did not ask you that. You went down alone to see these two men, did you? A To see the car on the 20th of August, yes.

Q Why didn't you ask one or two of those other fellows to go along with you? A I didn't need them.

Q You said these men were up there to shoot you up?
A Not to shoot me up; to shoot the DeLucas.

Q Well, you knew Sacco and the DeLucas were friends, didn't you? A At one time they were, until Sacco wanted the DeLucas to kill Vincent and Ciro Morelli.

Q You don't know anything about that except what DeLuca told you? A Bobbie Russo also.

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

MR. MERCHANT: If the Court please there are one or two questions I want to ask this witness but I do not want to ask them now. I would like to have the right to call him

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for cross-examination on Monday.

THE COURT: You will be here Monday?

THE WITNESS: Yes, I have been subpoenaed here for Monday.

MR. MERCHANT: That is all for the present for this witness.

THE COURT: Well, come back on Monday.

MR. McDONALD: I will postpone my redirect examination until he finishes his cross-examination.

D R. I R V I N G G R E E N B E R G, of 1721 Fulton Avenue, Bronx, called as a witness in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McDONALD:

Q You were ambulance surgeon at the Harlem Hospital on the 20th of August, 1917? A Yes sir.

Q Where is that hospital located? A At 137th Street and Lenox Avenue.

Q As the result of a call did you go any place between the hours of eight and nine or 9.30? A Yes sir.

Q Where did you go? A I don't know exactly.

Q 110th Street and 2nd Avenue? A Yes sir, a drugstore at 110th Street and 2nd Avenue.

Q Did you see anybody there? A Yes.

Q Did you see Dominic DeLuca? A Yes.

Q Did you do anything for him? A I bandaged his right arm temporarily.

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Q What was the matter with him? A He had a bullet wound in the right forearm. I bandaged it and took him to the hospital.

Q Did you take anybody else to the hospital? A Yes, a little chap named Socarato.

MR. MERCHANT: Objected to as immaterial.

THE COURT: I will allow it.

MR. MERCHANT: Exception, please.

Q What was the matter with him? A The bullet went in the left leg.

Q How long did Dominic DeLuca remain in the hospital?
A Four days.

Q How long did Socarato, the boy, remain there?

Objected to as incompetent, irrelevant and immaterial.

Objection sustained.

THE COURT: I merely allowed it as part of the transaction of taking him to the hospital. We are not concerned here with the shooting of Socarato.

BY THE COURT:

Q Did you extract the bullet from his arm? A No sir.

Q That was done by the surgeon? A Yes.

Q You merely dressed the wound and brought him there?

A Yes.

Q To which surgeon? A Dr. Holtzman.

Q Were you present when that was done? A Yes.

Q You saw the bullet taken from his arm by Dr. Holtzman?

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A Yes sir, at the hospital.

BY MR. McDONALD:

Q Do you know to whom the doctor gave that bullet; was it the police officer? A I think a detective.

Q Detective Price? A I don't know.

THE COURT: Mr. Merchant, do you dispute that there was some shooting there and that he was shot?

MR. MERCHANT: I am not interposing any objection. I have no doubt that is the bullet wound and the doctor has proved it. I am not disputing there was a bullet wound there.

MR. McDONALD: That is all.

CROSS-EXAMINATION BY MR. MERCHANT:

Q Doctor, have you your card with you; did you make out a card at the time of this card? A I happened to take the chart along to refresh my memory. I have not got the card.

Q Do you remember what time it was when you got to the drug-store? A Some time in the evening; I don't remember.

Q Your chart would not show that accurately? A No.

BY THE COURT:

Q By the chart you mean a sort of history of the case?

A Yes sir.

Q Generally it refers more to changes in a patient's condition when in the hospital? A When brought in.

Q This was so, Doctor, when he was brought in? A After fixing him up in the accident ward he was admitted to Ward 3 at

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10.30 P.M.

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BY MR. MERCHANT:

Q What time? A At 10.30 to the ward. That means he got to the ward after being dressed and given temporary treatment which may have lasted about two hours.

Q Where was the hospital? A Lenox Avenue and 137th Street.

BY THE COURT:

Q You first treated him in the drugstore? A Yes.

Q Then you treated the other man there? A Yes sir.

Q Then you took both to the hospital? A Yes sir, and gave them emergency treatment.

Q They were put in what you call the accident ward?

A Yes.

Q And then they received emergency treatment there? A Yes.

Q And then since it was advisable to keep him in the hospital he was sent to a ward? A Ward 3.

Q For permanent and further treatment? A Yes sir.

MR. MERCHANT: That is all.

ROBERT ROSSIE, called as a witness in behalf of the People, being duly sworn, testified as follows:

Residence: 221 West 114th Street.

DIRECT EXAMINATION BY MR. McDONALD:

Q You are a little bit hard of hearing, are you? A Yes sir.

Q Well now, if you don't hear all the questions that are asked of you why don't answer them. A Yes sir.

Q Do you know Dominic DeLuca? A Yes sir.

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Q How long have you known Dominic DeLuca? A About seventeen years.

Q Do you know Sam Sacco? A Yes sir.

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

Q Do you know the defendant Charles Young? A Yes sir.

Q How long have you known him? A About five months and a half.

Q Five months before August 20th? A No sir, from that time until now.

BY THE COURT:

Q From the time you first met him until now, is that it?
A Yes sir.

BY MR. McDONALD:

Q Did you know him before the 20th of August? A Not to speak to.

Q Had you ever seen him before the 20th of August?
A Yes sir.

Q How often? A I seen him at State's Prison with me.

Q How long had you seen him in State's Prison with you?

A I seen him about three months.

Q You were there three months while he was there? A Yes

Q Did you work in the same shop? A No sir.

Q What did you do up there? A I worked in the cart and wagon shop.

Q What did he do? A I don't know what shop he worked in.

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Q Did he work in any shop? A Not as I know of.

Q Where would you see him up there? A Sometimes I would see him standing around the mess hall.

Q What name did you know him by? A Just Charley Young.

Q That is the only name you ever knew him by? A Yes sir.

Q Did you see him after you came out of prison? A Yes.

Q How many times? A About four times.

Q Did you take a ride in an automobile with him at any time before the 20th of August, 1917? A Yes sir.

Q How long before? A About three weeks.

Q Previous, before the 20th of August? A Yes sir.

Q Where did you go? A I went to Brooklyn with him.

Q Who was with you? A Sam Sacco.

Q Anybody else? A Charley Young.

Q Charley Young, this defendant here? A Yes sir.

Q What was Charley Young doing? A He was driving the car.

Q What kind of a car was it? A A Packard.

Q How was it painted? A Black, dark paint.

Q Do you know how many passengers it could seat? A Seven maybe.

Q How many went down to Brooklyn, or over to Brooklyn with you that night?

MR. MERCHANT: Objected to as incompetent, irrelevant and immaterial, not connected.

A Three girls and three fellows.

THE COURT: It may be connected. If it is not con-

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nected it will not do you any harm. It is preliminary testimony. If it is not developed any further it will amount to nothing.

MR. MERCHANT: Exception, please.

Q You say three girls went with you? A Yes.

Q How long did you remain over there? A I remained in Brooklyn about five minutes.

Q Did you come back? A Yes.

Q Where did you go when you came back? A Stopped at the Hotel Remington.

Q Where? A 46th Street between Broadway and Sixth Avenue.

MR. MERCHANT: I again renew this objection. This is some weeks prior to this shooting.

THE COURT: He is accounting for his acquaintanceship with Charley Young and the extent of it. It may save you a lot of time on cross-examination. I will allow it.

MR. MERCHANT: Exception, please.

Q Now then, did you have any talk with Sacco? A Yes.

Q Before you got to 46th Street or afterwards? A Afterwards.

Q Well now, when you got to 46th Street, did anybody leave the car? A Yes sir.

Q Who left the car? A The three girls.

Q Anybody else? A No sir.

Q Did Sam Sacco leave the car? A Sam Sacco left the

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car but got back into it again.

Q Did he say anything when he left it? A He said he was going up to get a raincoat.

Q Was the defendant Charley Young there all this time?
A Yes sir.

Q Now then, did Sam Sacco say he was going upstairs for anything? A He said he was going up in the house for a raincoat.

Q What kind of a night was it? A It was a fine night with the stars shining.

Q Did Young leave the car? A Yes sir.

Q What did he say he was leaving the car for? A He also went to get his raincoat.

MR. MERCHANT: I object as incompetent, irrelevant and immaterial and not shown to have any connection.

Objection overruled. Exception.

Q Did Charley Young leave the car? A Yes sir.

Q Where did he go? A Into the Hotel Remington.

Q Did he come back again? A Yes sir.

Q Did he have anything with him; I mean did he have a raincoat? A No sir.

Q Did these two men get back into the car? A Yes.

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Q What happened then? A He said, "We will ride Robbie home."

Q Who said that? A Charley Young. I said, "Never mind, I will pay my fare home." They insisted upon driving me home so I said all right. When we got to 110th Street they did not stop because I lived in 110th Street. Sacco said "We will go up and see Nic Todo in the Bronx." We went to the Bronx and as we stopped the car right opposite a lot

Q Before you got to this lot was anything said to you by Sacco?

MR. MERCHANT: I know what is coming and I object most strenuously.

THE COURT: The District Attorney knows the limitation of his rights and I assume he will ^{not} exceed them. I am going to allow him to prove a conspiracy, if he can.

MR. MERCHANT: Here is a most peculiar night trip to the Bronx with an over coat when it is clear, three weeks prior to this occurrence. It can have no connection with the res gestae.

THE COURT: The District Attorney may surprise you by supplying the connection. I will give him that opportunity anyway. He knows that he must not bring in any matter that refers to any other crime but the one committed in 110th Street. I do not care about any other transaction between Sacco and Young

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and this witness except those ^{that} bear on the establishment of a deliberate plan to kill De Luca by Young and Sacco and others, or by Sacco using Young as his agent or anyone else as his agent. That I will allow.

MR. MERCHANT: Exception. I object as incompetent, irrelevant, immaterial, not shown by statement or otherwise to be connected with the alleged crime charged, in the res gestae, and liable to be harmful to the defendant.

THE COURT: I overrule the objection and I direct the District Attorney to be extremely careful to confine his evidence to the limit I have indicated. He may prove a conspiracy if he can.

MR. MERCHANT: Exception, please.

Q On the way up did you have any talk; was there any talk between you and Sacco or you and Charley Young or you and Charley Young and Sam Sacco. A Yes sir.

Q What was the talk? Just tell us the talk. A Sam Sacco said to me how did I come to be such good friends with Antonio De Luca. I told Sacco that I was everybody's friend if I could be, so he said to me I showed more friendship to DeLucas than I did to him. So he said to me, "If you are my friend you are the only man can get near enough to Antonio De Luca." He said, "therefore, you can kill him for me." He said, "And you will never go to jail Charley Young said that he could get any amount of bail

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for me if I was arrested. So I told him no, I would not kill nobody. I said, "Antonio De Luca never asked me to kill anybody, I don't see why you should ask me." So he dropped the matter, said no more about it.

Q You went in the machine further than 110th Street, didn't you? A Yes sir.

Q You went up to about how far? A As far as 149th Street,

Q We will stop there; did you see Charley Young and Sam Sacco again after that? A I seen them the night that they shot at us at 110th Street and Second Avenue.

Q That was the 20th of August, 1917? A Yes sir.

Q Where were you? A I was seated in front of Guiseppi DeLuca's saloon.

Q That is where? A 110th Street and Second Avenue.

BY THE COURT:

Q Is that the father of Antonio and Dominic De Luca?

A Yes.

BY MR. McDONALD:

Q You were sitting outside the saloon were you? A Yes sir.

Q Who was there besides yourself? A Antonio De Luca Dominic De Luca, us three sat there. A fellow by the name of Danny stood up. He stood in the doorway. As we were sitting there Antonio De Luca was talking.

Q Anyone else besides you four? A No.

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Q Did you see Joe Praino there? A Joe Praino stood out about three feet from us near the gutter.

Q Just tell us what you saw. A As we were sitting there Antonio De Luca started to crack a joke or one thing or another.

Q Tell us what you saw. A Well, four shots were fired, - three or four shots and as we jumped up I turned around and I seen Pogano and Charley Young standing next to him.

Q Charley Young and Pogano? A Yes.

Q You mean Charley Young, this defendant? A Yes.

Q What were they doing? A I seen Pogano shooting at us and Charley Young standing next to him.

Q Did he have anything in his hand? A I could not see, because the sign was blocking him too much.

Q What sign; is that the sign you mean (pointing to People's Exhibit 5 in Evidence)? A Yes.

Q Did you see his hand? A No sir.

Q Now then how many shots were fired? A Four or five shots I did not count them because I was too excited.

Q Did you see Peter Bianco there? A Yes.

Q Where was he? A He stood more to the street.

Q More towards the gutter? A More towards the gutter.

Q What happened then? A After the shots were fired Dominic hollered out "They got me." So we all walked Dominic into the saloon and Dominic was shot in the arm.

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So Antonio De Luca goes outside of that saloon, so I heard three shots outside the door. When we came out Danny was taking Dominic to the drug store. So I came out and stood on the corner. I got mixed into the crowd one way or the other and there was five or six shots, - three or four other shots fired into the side of the drug store. As I got to the corner I seen Sam Sacco backing out of the drug store with a gun in his hand.

Q Did you see where they went then? A No sir, I ducked into the crowd. I did not pay no more attention to them.

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

MR. MERCHANT: I would like to have De Luca stand up. I want the height of these two men compared simply on the record.

(The witness Rossie steps down from the stand and stands beside Dominic DeLuca, and then the witness returns to the stand).

MR. MERCHANT: May it be noted on the record that Rossie is perhaps a couple of inches taller than Dominic De Luca.

(THE COURT: Yes.

CROSS-EXAMINATION
BY MR. MERCHANT:

Q Is Rossie your right name? A Yes.

Q What is your right name? A That is the name I am under now, Rossie.

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Q Have you ever been convicted? A I was.

Q When? A February 20th, 1915.

Q What for? A For burglary, third degree burglary.

Q You served a sentence? A Two years and four months, yes sir.

Q Have you ever been convicted of any other crime?

A No sir.

Q You served in Sing Sing, was it? A That is the only place I ever was.

Q I did not hear your true name; is it Rossie? A I said my name was Rossie.

BY THE COURT:

- Q Is there any other name you ever had? A Ryan.

BY MR. MERCHANT:

Q Which is your right name? A Ryan is my right name.

Q You are not an Italian, is that it? A No sir.

BY THE COURT:

Q How old are you, Rossie? A 24 at the present time.

Q How long have you been out of Sing Sing? A Since March 9th.

Q How often did you see Harley Young in Sing Sing?

A About three or four times.

Q How was he dressed in Sing Sing? Did he have a uniform on? A Just the same as myself.

Q Civilian clothes? A Prison pants. He might have had a different shirt of collar.

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Q No stripes however? A No, we did not wear stripes

Q You had civilian clothing? A Yes, dark grey.

BY MR. MERCHANT:

Q Now this automobile ride to the Bronx of which you speak took place at what time? A At twelve o'clock or half-past twelve at night.

Q I mean what date? A I don't remember the date.

Q How long before August 20th, the time of the shooting?

A I can't remember.

Q A month? A It was the early part of the month.

Q To the best of your recollection. A The early part of the month of August.

Q About three weeks? A Three or two and a half weeks.

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

Q Where did you know Sacco? A I knew Sacco to talk from Comstock prison.

Q Was he also in Sing Sing? A Yes sir.

Q Did you know him also in Sing Sing? A Not to talk to.

Q Are you good friends with Sacco? A I thought I was until the time he shot me.

Q Up to that night you thought so? A I thought I was his friend until the night he shot me.

Q He did not shoot you, did he? A Yes sir.

Q Were you hit? A Four times I was hit.

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BY THE COURT:

Q When did he hit you? A In the Bronx.

Q Not the night of the 20th of August? A No sir.

Q Your changed your opinion about his friendship after that, did you? A I certainly did.

BY MR. MERCHANT:

Q Charley Young has no grudge against you that you know of, has he? A Not as I know of.

Q He did not have any on August 20th that you know of?
A I don't know. There was shooting that night. that is all I know.

Q He did not have any grudge, did he? A I could not say.

Q That you know of. A I don't know what he had up his sleeve; not as I know of.

Q When was it Sacco shot you, after August 20th or before? A That was before.

Q Before August 20th? A Yes.

Q Do you mean it was between this ride you had in the early part of the month and August 20th that you were shot?

A Yes sir, that is, the first shooting happened.

Q How long after this talk you had was it that De Luca was shot? A About two weeks after that, he fired the other shots at us.

MR. McDONALD: Did your Honor understand that?

THE COURT: It was about two weeks after

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that that they fired the other shots. I suppose he means that the 20th of August was two weeks after the time he was shot.

BY THE COURT:

Q Is that what you mean? A Yes.

BY MR. MERCHANT:

Q Did Sacco tell you on this ride to the Bronx why he wanted you to kill De Luca? A Well, there were some shots fired at Sacco.

Q Is that what he said? A He told me that Antonio De Luca fired some shots at him, but I already knew it.

Q You knew De Luca had fired at Sacco? A I did.

Q Did you tell that to Sacco, that you knew it? A He knew that I knew it.

Q Did you tell him that? A No.

Q Then how did he know that you knew it? A Because he knew I was in the neighborhood. I live in the neighborhood where the shooting took place.

Q You knew that De Luca had fired shots at Sacco?

A I certainly did. I heard it.

Q Did you see him do the shooting? A I did not see him do the shooting.

BY THE COURT:

Q It was common talk? A Just talk around the fellows

BY MR. MERCHANT:

Q Well, De Luca had not fired any shots at Charley

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Young that you know of? A Not as I know of.

Q Now you say that on this evening of the shooting at 110th Street, when the shooting began I am talking about, at the time it began, Praino was out by the gutter, and where were you standing? A I was sitting.

Q Where were you sitting? A In front of the saloon.

Q What were you sitting on? A A chair.

Q Now, Rossie, you were sitting down, and who else was sitting down if any one? A Antonio De Luca and Dominic De Luca.

Q They were both sitting down on chairs, too? A Yes sir.

Q And Praino was near the gutter? A Yes.

Q Was there anyone else there? A A fellow named Danny standing there.

Q What is his last name? A I don't remember his last name.

Q Dan? A Danny, that is all I know him by.

Q Where were you in relation to Dominic who was shot?

A Dominic was on my right hand side.

Q You are Robert Rossie? A Yes.

Q Whom did you see first of those doing the shooting?

A I seen Pogano first.

Q Whom did you see after you saw Pogano? A I seen Charley alongside of him.

Q Were they behind this sign, People's Exhibit 5 in Evidence? A Yes sir.

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Q Both of them behind it? A Yes sir.

Q What is the first thing that attracted your attention to them? A The way I looked at them I seen them.

BY THE COURT:

Q Didn't anything attract your attention? A The shots, that is all. brought my attention to it.

Q You heard shots and then you turned? A Yes.

BY MR MERCHANT:

Q What did Dominic do. A Dominic jumped up and he said he is shot.

Q What did he do as soon as he jumped up,, walked up into the saloon? A Yes,

Q He walked right into the saloon? A Yes.

Q And the shooting went on after he had gone into the saloon? A After Dominic got into the saloon everything was disappeared.

Q Then there was Dominic and his brother Antonio and you and then Pogano and what is the name of the other man?

A Danny.

Q And had you all been there together for how long, half an hour? A Pogano was not with us at all.

Q I know that, I did not mean to say Pogano, I meant to say Praino. There were Praino and you and Danny and Antonion and Dominic De Luca. How long had you all been together there; for some time? A Praino was not with us. Praino was standing out on the street.

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Q Had he been there with the group of you? A No sir.

Q He had not been talking to you at all? A No sir.

Q He had not been over with you boys? A No sir.

Q He was just standing there in the street? and A Yes sir.

Q Now I want to ask you again and please answer if you can. Did Sacco tell you why he wanted you to shoot De Luca? A Well, I told you that answer before.

Q Did he tell you why? A I told you, he told me I was the nearest man that could get close to him. I was the closest man to get to him.

Q What did you say to that? A I told him I would not do it.

Q How long did he talk to you about it? A Say about five minutes.

Q Did he tell you that he had asked De Luca to jkill some one else and he De Luca would not do it? A I knew he did.

Q How did you know it? A Because Antonio De Luca told me.

Q By the way, did you tell the policeman to warn these people? A I told nothing at all. I told nobody.

Q You did not tell the police to warn the people that Sacco wanted to kill? A I told nobody.

Q But yyou knew Ssomebody might be killed. A I did not know exactly they would follow out their threat. I did not think theywould.

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Q You heard threats? A So often they threaten; they threaten so many people and never carry out their threats.

Q WEven after you were shot you did not notify the police about this? A No, I thought he would leave us alone.

Q You thought after shooting you he would leave the rest of you alone? A I thought he would leave me alone anyhow.

Q Well, he did not shoot you again? A No. I suppose once is enought I guess.

BY THE COURT:

Q Did you shoot you the same night he spoke to you about killing Antonio? A That is the night he shot me.

Q The night you went up to 149th Street in the automobile? A Yes.

Q And this defendant was there? A Yes, he drove the automobile.

Q Did they shoot you in the automobile? A After they took me in the lot and shot me.

Q And left you there? A Yes, I walked out after he got away.

BY MR. MERCHANT:

Q What are you doing now? A I am held as a witness now.

Q In the House of Detention? A Yes.

Q How long have you been held there? A I have been held since August 20th, but I have been in different places.

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BY THE COURT:

Q What do you mean by that? A In different prisons they can serve me.

Q You have been kept in different prisons of detention you mean? A Yes.

BY MR. MERCHANT:

Q Do you know Fortnash? A I know Danny, if that is Fortnash.

Q He was Danny? A Yes.

Q Do you know what he does? A I runs a paperstand.

Q He skipped his bail recently, didn't he? A I understand he did.

MR. MERCHANT: That is all.

BY MR. McDONALD:

Q \$25,000 bail was it?

THE COURT: How does he know? If you^{think}/that question is material we can have it locked up in the record. It would be hearsay as far as he is concerned.

I think we will adjourn now. We will resume the case at half-past ten Monday morning.

MR. MERCHANT: Is it understood that Praino will come back Monday?

MR. McDONALD: All my witnesses will be here Monday.

THE COURT: Gentlemen of the jury, the Court will now take a recess until 10:30 o'clock Monday morning.

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In the meanwhile remember the admonition that I have given you before, that you are not to discuss this case with anyone. That injunction applies also to talks among yourselves. You must not talk to your fellow jurors about this case, just as you are forbidden to talk about it to strangers. You must not visit 110th Street and Second Avenue. You must not make any inquiries on your own account. You must get the story from the witnesses that appear upon the stand. You must keep an open mind and hear all that is to be said by both sides, and do not form any opinion nor express any opinion on the question of the guilt or the innocence of the defendant until the case is submitted to you. by the Court at the end of it for your decision. That is the time to decide it, to make up your minds and not before that. You will please come back at half-past ten o'clock Monday morning.

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PEOPLE vs. CHARLES ROSSI CHIAFALO.

TRIAL CONTINUED.

New York, January 14, '18
Monday, 10:30 A. M.

MR. MERCHANT: If the Court please, I have reason to believe that one important witness for the Defendant is avoiding service of a subpoena. I had him here under subpoena on Friday and have been trying to serve him ever since. I have his affidavit here if the Court wants to judge of his importance, and I shall know about eleven or half-past whether they have been able to serve him. If not I was going to ask the Court if he will delegate an officer to try to get service on him.

THE COURT: Yes, I will.

MR. MERCHANT: I had in mind about recalling the witness Praino for cross-examination, but I have decided not to recall him.

MR. McDONALD: I am through with him also, your Honor.

MARGARET DE LUCA, of 2135 Second Avenue, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McDONALD:

Q You are a sister of Dominic De Luca? A Yes sir.

Q You are the daughter of the man who owns the

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liquor store on the southeast corner of Second Avenue and 110th Street? A Yes sir.

Q Where do you live? A 2135 Second Avenue.

Q One which side of the street is that? A Right opposite the saloon and 110th Street.

Q You mean your father's saloon? A Yes sir.

Q Where were you on the 20th day of August, 1917, about eight o'clock? A I was downstairs. I was right across the street from my father's saloon, outside.

Q Did you see your brother Dominic any time that night?

Q Well, he was sitting down outside the saloon.

Q Was there anybody else with him? A Yes sir.

Q Who was with him? A There was Robert Ross, my brother Tony De Luca and John Fortnash, and Joe, that fellow over there, Joe.

Q Did you see anything happen? A Yes sir.

Q Just tell us what you saw? A Well, I saw the fellows turn the corner from 110th Street and they got right in back of the sign. I saw the fellows.

Q What did you see them do? A Well, there was a little short fellow in back of the sign, and Charley Young in back of him with a revolver in his hand.

MR. MERCHANT: I move to strike out, "and Charley in back of him."

THE COURT: Motion denied.

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BY THE COURT:

Q By back you mean behind? A Yes sir.

Q You mean this defendant when you say Charley Young?

A Yes sir.

BY MR. McDONALD:

Q What did you see them do? A Well, I saw him have a revolver in his hand, but I did not see him shoot.

Q Did any shooting take place there? A Yes sir.

MR. MERCHANT: Objected to. She said she did not see him shoot.

Objection overruled and exception taken.

A I saw the other fellows shoot, Peter Bianca and Sacco but I did not see him.

Q But you did see a revolver in his hand? A Yes sir.

Q About how many shots did you hear fired? A About four shots.

Q What happened then? A Then my brother entered the drug store and I went over the drug store and as I stopped by the car-tracks I saw that automobile in 110th Street by the church.

Q You saw that automobile in 110th Street? A By the Church.

MR. MERCHANT: I object to the District Attorney leading the witness.

THE COURT: Objection overruled; the District Attorney did not lead.

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Exception taken.

Q Did you see anybody getting into this automobile?

A No, but I saw other fellows in it.

Q Can you tell us who those other fellows were? A No, I could not see them.

Q What did you do after you saw this automobile? A I went into the drug store.

MR. MERCHANT: I object to any further testimony as after the alleged shooting.

Objection overruled. Exception taken.
in the drug store

Q Did anything happen while you were in the drug store?

A While I was in the drug store --

MR. MERCHANT: I renew my motion; that is I object to the testimony.

Objection overruled. Exception taken.

A Then I heard more shooting. As I was looking out I saw the defendant Charlie Young and Sam Sacco.

Q About how many shots were fired while you were in the drug store? A About seven or eight shots.

MR. McDONALD: That is all.

CROSS EXAMINATION BY MR. MERCHANT:

Q How old are you, Miss De Luca? A I am 18.

Q How long have you known Pete Bianco? A I don't know him very long.

Q How long? A About five or six weeks before the shooting.

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Q Where did you first meet him? A He lived in 110⁹⁵th Street, Seond and First Avenue, and that is where I used to see him.

Q Was he a friend of your brother Dominick? A Well, I don't know whe ther he was a friend of my brother's or not.

Q Where did you meet him then; did you meet him through your brother? A No, well, he lives in 110th Street, First and Seond Avenue, and of course I lived right near there and I used to see him when he used to go up to his house.

Q Did you know him to speak to? A Not to speak to.

Q You simply knew him by sight? A By sight.

Q I show you a chart, People's Exhibit 4 in evidence and ask you if you will point out on the chart where you were when you say you saw two men behind the lunch sign?

BY MR. McDONALD:

Q Do you understand the diagram? A Well, here is the saloon (indicating).

Q Now here is the drug store.

MR. MERCHANT: Let her explain, Mr. McD onald.

Q (Continued) This is Seond Avenue and that is 110th Street and there is your father's saloon and there is the drug store? A Well, I was opposite.

Q You were opposite the saloon? A Yes, on Seond Avenue.

Q Well, counsel wants you to fix where you were?

BY MR. MERCHANT:

Q Where were you, Miss DeLuca? A Right opposite the

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saloon, Second Avenue and 110th Street.

Q Where, on the sidewalk? A Yes, near my building on the sidewalk.

Q What do you mean "near my building"? A Well, 2135 Second Avenue.

Q What do you mean by my building, where you lived?
A Yes.

Q Where is the building 2135 Second Avenue? A This is opposite my father's saloon.

Q Is it on the corner, the building where you lived?
A Not on the corner.

Q How far from the corner? A One building away from the corner.

Q On Second Avenue, one door from 110th Street? A Yes, about one building away from the corner (indicating west side of Second Avenue).

Q With whom do you live there, with your father? A My father and one of my brothers and my mother and my sister.

Q Is that an apartment house, that building that you live in? A Well, yes, six families live in it. It is a tenement house.

Q I ask you where do you live? A On the third floor.

Q Front or back? A Well, they are flats; back and front.

Q Where were you when you saw your brother and these other men in front of the saloon? A I was outside in the street.

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Q On the sidewalk? A On the sidewalk.

Q Well, now, will you mark on the chart where you were on the sidewalk at the time you saw your brother? A If this is opposite the saloon, I was over here (indicating).

Q Will you put a mark on the chart please where you were standing on the sidewalk? That is the sidewalk, from here to there (indicating sidewalk). A Well, about there (indicating).

Q No, you are marking the building. Just mark on the sidewalk? A Well a little further away from that (indicating).

Q Just put a mark there, put a circle? A (Witness marks with a circle).

Q Were you standing or sitting? A I was sitting.

Q What were you sitting on? A Well, a box.

Q What kind of a box? A Well, it was a soda box.

Q Who was with you? A Well, my cousins were there but after they went away, about a half an hour before the shooting, I was by myself. I left by myself.

Q You were alone? A Yes, I left by myself.

Q Nobody with you? A Nobody.

Q What is there on the ground floor of that tenement house, a store? A Yes, two stores.

Q What kind of stores? A One is a fruit store and the other is a dry goods store.

Q Were they open or closed? A They were open.

Q Were you sitting near the door or near the front of the store? A In front of the dry goods store.

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Q You say no one was with you for about half an hour?

A No one was with me.

Q What were you doing, reading? A I was reading a story book.

Q How long had you been reading? A I was reading about two hours before the shooting.

Q Which way were you facing? A I was facing the saloon.

Q What was the first thing that attracted your attention to your brother, the shots going off? A I was reading and I shut the book, and I looked over two or three minutes and that is when I saw the fellows come over. I was looking there.

Q How long after you saw the fellows, as you call them, was it before the shooting? A It was not very long.

Q About five minutes? A About two or three minutes.

Q When you first saw the fellows, did you see they had guns in their hands? A I saw them take a gun from the pocket.

Q And about two or three minutes after you saw the shooting? A Yes, sir.

Q You say you saw two fellows? A I saw Pete Bianco and Sam Sacco.

Q You saw two fellows; I did not ask you who. How many did you see? A In back of the sign?

Q Yes. A Well, there were three fellows in back of the sign.

Q When you first looked over and saw them, did they all have guns in their hands? A Yes, they all took the guns from

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their pockets.

Q Where did they come from; did you see them coming?

A I saw them turning the corner of First Avenue.

Q You saw them take their guns out and then two or three minutes afterwards, you heard the shots, is that right?

A Yes.

Q You know the three fellows, who were they; name them if you know them? A Sam Sacco and there was another fellow but I don't know that fellow and the defendant Charlie Young.

Q What did the third fellow whom you don't know look like? A I know he was a short fellow.

Q Who came first around the sign, the short fellow or Sacco? A The short fellow.

Q He came first? A Yes.

Q And after him who came? A Charlie Young was in back of him.

Q And after him who came? A Well, Sam Sacco was on the other side.

Q How long have you known Sam Sacco? A I have known him quite long but I never used to see him.

Q Well, I ask you how long you have known him? A Well, I know him about six years but I never used to see him.

Q Have you seen him since you knew him six years ago, and the night of the shooting? A Yes, sir.

Q Where did you meet Sacco? A Five or six weeks before the shooting. I was with my brother Tony DeLuca. I was down

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to my aunt's house downtown on 18th Street.

Q Sam Sacco was with your brother? A No, I was by myself and coming home, we got off the station at 106th Street and Third Avenue and we were walking down and on 109th Street and Third Avenue on the northeast corner there is a saloon there and as I passed by there was Charlie Young and Sam Sacco and a few other fellows who I don't know, and Sam said to my brother, "Hello, Tony", and my brother said, "Hello, Charlie", so we passed by, and I said to my brother, "Who is that fellow, Charlie". He said, "That is Charlie Young a friend of mine that I know from Sing Sing".

Q That is what your brother said to you? A Yes.

Q And was that the first time you ever saw Charlie Young until the night of the shooting? A Yes.

Q And you never saw him again until the shooting? A I saw him once before, before the shooting.

Q Where was that? A I was with my sister-in-law the other time.

Q What is her name? A Mary DeLuca.

Q Where did you see him the time you were with your sister-in-law, Mary DeLuca? A We were going on 122nd Street and Third Avenue. We walked up to 118th Street and 119th Street on Third Avenue and as we were walking there was an automobile and the automobile stopped and in the automobile there was Charlie Young, Sam Sacco and two other girls. I know one of the girls but I don't know the other girl.

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Q Those are the only two times you ever saw Charlie Young before the night of the shooting? A Yes, sir.

Q What light was there where you were sitting when you first saw the men coming around the sign? A Where I was sitting?

Q Yes. Was there any street lamps or anything of that kind? A Well, right in front of the dry goods store.

Q What light was there right near where you were sitting on the box? A There is the lights in the stores.

Q There was no street lamp? A There is one on the corner further down.

Q On which corner? A 110th Street corner.

Q You mean on 110th Street and Second Avenue? A Yes, sir.

Q On which corner? A The corner opposite the saloon and 110th Street.

Q Do you mean the drug store? A Across the street from there.

Q You mean the drug store is across the street from the saloon. Is that the corner where the light is? A There is a light there and there is another light right opposite.

Q Right opposite on what other corner? A Corner of 110th Street and Second Avenue.

Q What did you see your brother Dominick do after he was shot? A After he was shot, he went to the drug store.

Q Right over to the drug store. What did he do, get right up from the chair and walk over to the drug store? A He

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