

**START**

2110

**CASE**

**CASE #2110**

1060



Examination of jurors.

pp. 363-450

Trial pp. 1-362

I N D E X.

WITNESSES.	DIR.	CR.	RE-DIR	RE-CR.
Timothy D. Lehane,	8-	12-	14-	15-
Michael Curry,	16-	22-	24-	
George Isaac Fenn,	24-	33-	47-	51-

CASE #2110



# I N D E X

	Direct	Gross	Re-Dir.	Re-Cross
Philip Terrano	54	61	71	
Jerome Conway	75	80	91	91
Isaac Weinstein	93	97		
George Henry Wright	104	113	119	121
Madeline Grecke,	123	126		
Jacob Winitzky	126			
Edward W. Wiessner	130	134	135	136
Alexander Wagner	136	138		
Abraham Jacobson	141	144		
George T. Valentine	149	151	151	
Adam Doering	153	153		
Allan Landvoe	153	161		
Gerben Pusthuma	163	163		
William Smith	164			

CASE #2110



<u>TALES MEN</u>	<u>INDEX</u>	<u>Direct Ex'n</u>	<u>Cross Ex'n</u>
William W. Clark		365	---
W. De Saussure Trenholm		366	367
James L. Crawford		369	370
William E. Boise		370	371
George A. Suter		372	374
Charles K. Harris		375	---
Isaac Cohen		377	---
William Angelo		377	378
Louis P. Rupp		383	385
Harry L. Goss		385	386
Henry C. Rogers		387	---
Louis J. Feis		389	---
George De Wolf Deans		389	390
Charles De Kay		392	393
John W. James	(page 394)		
Solon E. Summerfield		394	395
Walter H. Wheeler		397	398
Alfred Ireland		401	---
Sidney S. Lenz		402	404
William Marbe		404	405
A. P. De Forest Allgood		406	---
David B. R. Chapman		408	---
Arthur J. Birkner		410	---
Thomas D. Barroll		412	413
Jay Gold		415	---
John F. Black		416	417
William Manger		417	---
William Burck		420	421
David Lamont		422	---
Thomas E. Brown		422	---
Edward Hagaman Hall		423	---
David Wilson		425	426
Louis C. Rieck		427	---
Isaac N. Roth		428	429
Henry P. Walbridge		430	432
J. W. Fuller Potter	(page 432)		
David Koblenzer		433	435
Henry P. Ackerman		436	---
Frank W. Cuttrell		438	439
Robert B. Jefferson		440	---
George De B. Greene		442	444
Marvin Burt		444	---
Peter Mc Chesney		444	446
Richard A. Belding		447	448

CASE #2110

1063



COURT OF GENERAL SESSIONS OF THE PEACE

IN AND FOR THE COUNTY OF NEW YORK.

PART FIVE.

2589

-----X  
THE PEOPLE OF THE STATE OF NEW YORK :

B e f o r e :-)

-against-

: HON. JAMES T. MALONE, J.

PETRIUS C. von den CORPUT, alias :  
JOHN HENDRICKS.

and a Jury.  
-----X

New York, Tuesday, October 19th, 1915.

THE DEFENDANT IS INDICTED FOR MURDER IN THE FIRST DEGREE.

INDICTMENT FILED September 21st, 1915.

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

W. H. L. Edwards, Esq., and Deacon Murphy, Esq.,

Assistant District Attorneys, for the people.

Robert M. Moore, Esq., and Martin O'Brien, Esq.,

for the defendant.

(A jury is duly empanelled and sworn)

THE COURT: Gentlemen, you must not discuss this case, nor form nor express an opinion on it, but keep your minds open and free until the case is submitted to you.

You will see to it that you do not go near any place that is mentioned during the trial. The law requires me every time you leave my presence to give you the caution that I have given you. It is <sup>not</sup> an idle thing, but substantial, and it is to be observed by you strictly. In other words,

CASE #2110

1064



let me press upon you that you are only to take up the discussion of this case, or any phase of it, after you have left here and retired to your deliberating room. Get that well into your minds at the threshold of the trial, and observe the caution from this time until the close of the trial. I will ask you to be prompt in your attendance here. You all appreciate and know that the absence of one delays the trial entirely. You will come back here this afternoon at half past two. Be in your places, please, at that time.

(The Court then accordingly took a recess until 2:30 P. M.)

-----  
A F T E R            R E C E S S.  
T H E    P E O P L E ' S            C A S E.

(Mr. Edwards then opened the case to the Jury on behalf of the people as follows:-)

If it please your Honor and Mr. Foreman and gentlemen: As you already know, the defendant, whose name is Petrus Cornelius von den Corput, who comes from Holland, is charged in the indictment in this action with murder in its first degree, for the killing of one Barbara Wright.

The people's proof will in the course of the case go back to when these two persons first met, and will show you that they met while they were both working in the same place, the defendant as a house man and the deceased as a

CASE #2110



maid.

While working there, they became more or less intimate with each other, and they both ~~xxx~~ left that place of employment at about the same time.

Some time last August -- no, a year ago last August-- this woman was killed on October 28th, 1914, a year ago this month-- the deceased rented an apartment at 118 East 53rd Street, and the defendant went there as a boarder. The deceased lived there with her son, George Wright.

They remained on friendly terms until the defendant began to drink, and finally Mrs. Wright ordered him out of the house. It is my recollection that she had to have help in getting him to go out, but, any way, he left the apartment.

Several times after that he returned to see her, and tried to talk with her. Once at least, and I think more than once, the deceased called in the aid of the police. On one occasion, early in September, she called on a police officer, and the police officer coming at her call found the defendant, I think it was on Park Avenue, near their home-- near her home, and on her statement made to him in the defendant's presence he searched the defendant and found a knife in his possession, and the defendant was charged with disorderly conduct before the Magistrate and was sent away by him to the workhouse for a period of ten days.

CASE #2110



After his return from doing that time in the work-house, just what date I am not certain, he engaged rooms with a Swedish woman of the name of Anderson, at 114 East 53rd Street. I think that was within a week or two weeks of the time that the deceased was killed.

On the morning of the 28th-- the afternoon of the 28th of October, 1914, a delivery wagon was standing on the street just east of Park Avenue, on 53rd Street, at the south curb, with a young man in charge while the driver was making deliveries in the apartment house which runs from 52nd to 53rd Street and back on both sides from Park Avenue.

While this young man stood there, he saw the defendant in conversation with the deceased, on the sidewalk. He saw the woman start away from the man and go out onto the street. He saw the man follow her up. He saw the man strike her. He saw her fall to the ground, and he saw the man lean over and strike her again, and then run. He chased him out onto Park Avenue and south on Park Avenue towards 52nd Street, and we will show you by several witnesses who saw him running from the scene and recognized him, and have recognized him since, that this defendant is that man.

We will show you, from a letter which was found on the deceased at the time of her death, and was dated the 26th of October, which is in the handwriting of this

CASE #2110

1067



defendant, and which the defendant admits that he wrote, in which he shows as clearly as it is possible to show in language, his relations with the deceased before he killed her, his jealousy of the deceased, his disputes with her, and his assurance to her that he would not stand for her ignoring him as she had been doing.

This man at the time he met the deceased was known by the name of John Hendricks, and had worked in this city and county under that name. His real name, I believe, is the one that I have already read to you. We will show by former employers of him the fact that he worked under that name, and we will show by one employer for whom he worked before this woman's death and for whom he worked afterwards that after the death of Barbara Wright, after she was stabbed to death on the public street here, and the man who stabbed her, who will be identified as the defendant, escaped, that he went to work for this same employer under the name of John Smith.

We will show you that he went to the Consul General of the Netherlands and procured a passport under the name of John Smith. We will show you that he worked between the time of his arrest, which was September, last month, September, 1915, that he worked in Brooklyn in a candy factory under the name of Kuypas, and at no time after the killing of Barbara Wright did he work under the name of John Hendricks, by which he had been known since he had

CASE #2110



been in this country.

Now, on all those facts, for those, briefly, are the facts that will be proved in this case, it will be for you gentlemen to say whether this man is guilty, or not guilty.

Every murder case or homicide case has to be proved, as every other criminal case has to be proved by the prosecution, beyond a reasonable doubt; and there are two branches of every homicide case. We have to prove to you first that the person charged to be killed is dead, and dead by violence, and the law requires that ~~that~~ we prove <sup>that</sup> to you by direct proof, and we will prove it by the police officer who found the body and identified it to the Coroner's physician and by the Coroner's physician's statement of his findings at the autopsy, and the Coroner's physician will show you that this woman was killed by three stab wounds, one of which severed some of the larger arteries in the neck, one of which penetrated the heart, and one of which was of a superficial character. That is all direct evidence, and that will establish what is known as the corpus delicti, the fact of the death.

Then the other branch of the case is that the killing was committed by this defendant, and that branch of the case the law requires shall be proved beyond a reasonable

CASE #2110



doubt, and the facts which I have recited to you are the facts which the people will prove to you for the purpose of establishing the killing by the defendant of Barbara Wright.

And then, as I have said, it will become your duty to determine, first, if the defendant did the act, and, secondly, if he did the act, what degree of crime it constitutes.

The Court, of course, is the only one who has any authority to lay down what the law is, and where either counsel mentions the law they do it simply because it is almost impossible to try a criminal case without reference to what the law is. But right here, at the very beginning of the case, it is only proper, I think, that I should tell you gentlemen that the law as Mr. Moore happens to refer to it, or as I happen to refer to it is not to be taken by you as the law unless the Court tells you that it is the law. But, when you come to a question of determining the degree of this killing as a crime, which I think you will come to you in this case, the law defines first degree murder as the killing of a human being, which is neither excusable nor justifiable, with a premeditated and deliberate design to kill.

Now, it will be my contention to you that on the facts as we prove them here, the relations of these par-

CASE #2110



ties, the letter of the defendant written two days before  
 the killing to the woman <sup>who</sup> was killed, the threat which the  
 son will tell you that he made in his presence of a kill-  
 ing one or the other of these two, the mother or the son,  
 and all the circumstances surrounding the killing, includ-  
 ing the infliction of three wounds in the effort to kill,  
 show beyond any peradventure of a doubt that this man  
 killed this woman with a deliberate and premeditated  
 design to kill, and is for that reason guilty of the crime  
 of murder in its first degree.

Doctor Lehane.

-----  
 T I M O T H Y D. L E H A N E, Coroner's Physician, called  
 as a witness on behalf of the people, being first duly affirmed  
 testified as follows:-

DIRECT EXAMINATION BY MR. EDWARDS:

Q Doctor Lehane, you are a practicing physician and  
 surgeon of this City? A I am.

Q Duly licensed to practice? A Yes, sir.

Q And have been for how many years? A March, 1893.

Q That is some twenty-two years, is it not? A Correct.

Q During that time you have held the position of coroner's  
 physician, have you not? A I have.

Q And for how long? A Past twelve years.

Q And during your holding of that office, have you  
 performed any autopsies? A A few.

CASE #2110



Q Well, can you give us some estimate of how many?

A I never kept tabs on them. Thousands.

Q How many do you average a year, Doctor, or have you for the past twelve years? A Oh, I suppose a couple of thousand.

Q That is one of your duties as Coroner's physician?

A Yes, sir.

Q To perform those autopsies? A Yes, sir.

Q When there is a death which is unexplained? A Yes.

Q Doctor, do you recollect performing an autopsy on one Barbara Wright? A I do.

Q When was that? A On the 29th day of October, 1914.

Q Where? A At nine A. M., in the morgue, in this Borough of the City and County of New York, at the foot of East 26th Street.

Q And by whom was that body identified to you as that of Barbara Wright? A One officer Curry.

Q Of the 29th Precinct? A Yes, sir.

Q Doctor, will you tell us what you observed on an examination of that body before you got to the autopsy proper?

A That the deceased had considerable blood over the anterior surface of her body and three stab wounds.

Q Tell us where the surface indication of the stab wounds appeared? A No. I was on the right side of the neck, at the base above the collar bone or clavicle, two inches in length.

CASE #2110



Q That is the surface, you say, two inches in length?

A Correct, extending downwards and backwards. Number 2 was one and one half inches in length, on the left side, midway between the left nipple and the median line.

Q By the median line, you mean the line drawn down the center of the body, down front? A Yes, sir, going through the fourth interspace and entering into the heart.

Q The fourth interspace is between the ribs?

A Between the fourth and fifth ribs. Number 3 was a superficial flesh wound which was to the right of No. 2. That was only superficial.

Q When you say to the right or left, do you refer as if it was on your own body? A On the individual.

Q As you face it, to the right? A As I faced it.

Q As you face me, when you say this superficial wound was to the right of the other wound, would that be to my right? A It would be to the median line on the left hand side of the deceased.

Q That is, towards the median line? A Yes, sir.

Q Towards the deceased's right hand? A Yes, sir.

Q Now, in speaking of these three wounds you speak of them as numbers 1, 2 and 3? A Yes, sir.

Q Are those numbers which you put on them for <sup>your own</sup> convenience? A Yes, sir, commencing above and going downwards.

Q You don't mean in the order in which they were inflicted or anything of that kind? A No sir.

CASE #2110



Q Now, proceed and tell us just what you found in the performance of your autopsy? A I found the deceased came to her death from a stab wound of the heart.

Q Did you find the wound that you referred to as number one above the clavicle, where that went to? A Yes sir.

Q Where did it go to? A It went downward and backward, severing the vessels of the neck.

Q Can you tell us what vessels it severed? A The jugular vein, the <sup>muscles</sup> ~~muscles~~ and part of the cardio artery.

Q Those are two of the main arteries of the body?  
A The artery is, yes, sir.

Q The wound that you spoke of in the fourth interspace, where did that go? A Clean through the pericardium, which is a sac that lines the heart, and into the left ventricle, which is one of the cavities of the heart.

Q Can you state with reasonable certainty from your experience and knowledge as a physician and surgeon what caused the death of Barbara Wright? A I can.

Q Do so? A Stab wound of heart.

Q Can you state whether or not, with reasonable certainty, the wound in the throat which you have described, what effect that would have? A That eventually would cause death.

Q But not so immediate as the other? A No, sir.

Q Did you examine the other organs of the body?  
A I did.

CASE #2110



Q And what was their condition, please? You are now looking at the notes made by yourself at the time of the autopsy? A Yes, sir. (Examining paper) The heart was normal; the lungs normal; kidney and spleen normal; stomach was empty; the intestines contained foetal matter, and the brain was normal.

Q What can you say, Doctor, with respect to whether or not there was any other cause of death developed at the autopsy?

A There was no other.

Q You did not find any disease of the organs?

A Evidently none.

Q When you speak of the heart being normal, you mean aside from this puncture, this stab wound? A Yes, sir.

Q Of course, I assume that would be termed an abnormality, the injury to the heart? A Yes, sir.

MR. EDWARDS: That is all.

CROSS EXAMINATION BY MR. MORRE:

Q Will you describe for us, Doctor, a little more definitely, this third wound, called the superficial wound?

A It was a wound which was to the inner side of wound No. 2, which was situated over the fourth interspace and towards the median line; it was a wound which was oblique; I mean according to the long axis of the body; that was a superficial wound.

Q Just how much superficial? Was it a cut, or a bruise? A It went clean through the skin, down to the sternum, or bone.

CASE #2110

1073



Q So, it was a cut, and the cut was stopped by striking the sternum? A Correct.

Q What would be the effect, in your opinion, upon this body or this person of the stab wound, the immediate effect of the stab wound of which you have numbered 2, which passed through the heart? A The immediate effect?

Q Yes. A A collapse.

Q Immediate? A There is cases on record where they went a ~~few~~ few feet.

Q The general expectation is that there would be an immediate collapse? A Yes, sir.

Q And that is the general rule? A There is cases on record--

Q I am talking about the general rule? A I couldn't pin myself to that answer, because I haven't been there.

Q From your study of such wound, it is the general rule, is it not? A Yes, prove fatal.

Q Not only fatal, but I am talking about the immediate effect. It is a general collapse? A Yes, sir.

Q Falling to the ground? A Yes, sir.

Q Now, what in your opinion, Doctor, would be the immediate effect of the wound that you characterize as wound number one? A Why, the patient would suffer from shock, or fright, and if the shock was to that extent it would cause her to fall to the ground, and as the result, if there was no mechanical interference, or surgical interference, she would have bled

CASE #2110



to death.

Q It cut both the main artery and the main vein of the throat? A Yes, sir.

Q And the general immediate effect of that would be an immediate collapse, would it not? A Correct.

Q So that from either one of these first wounds, number one and number two, you would expect an immediate collapse?

A More so from number two.

Q I say, you would expect it from either one?

A Yes, sir.

Q And, of course, if the jugular is severed and the artery severed, she would bleed to death in a short time?

A Yes, sir.

Q About how long? A That would depend on her constitution, her age and size of the cut in the artery.

Q About how old was this woman? A Thirty-five or thirty eight.

Q In the physical condition you found her, with the arteries severed, and the vein severed, the jugular vein severed, about how long would she be in bleeding to death? A Between three and five minutes.

MR. MOORE: That is all.

RE DIRECT EXAMINATION BY MR. EDWARDS:

Q Doctor, was there anything about either of these two wounds, the first and the second, which would have prevented this woman from running a distance of fifty feet after she was

CASE #2110



stabbed? A Nothing. There is cases where they have done so.

Q And gone further than that? A Yes, sir.

MR. EDWARDS: That is all.

RE CROSS EXAMINATION BY MR. MOORE:

Q Did you understand his question? Nothing in either of these wounds which would prevent her from running?

A Correct.

Q There was something in either one that general experience taught you would prevent her from running?

A It may.

Q I am not talking about the remotest possibility. I am talking now about general expectations in these wounds?

A Well, that is a question, counsel, which I could not pin myself down to. A woman of her physique in all possibility she could have gone a distance with those wounds.

Q A possibility, but entirely an improbability, isn't it? A It is possible. I want to be fair, counsel.

Q Oh, I want to be, too. Entirely improbable, isn't it? A It may be.

Q Not may be. We can only speculate here upon probabilities? A Correct.

Q And the probabilities are that either one of those blows would cause such a shock as to make an immediate collapse, is it not? A Correct.

MR. MOORE: That is all.

CASE #2110



M I C H A E L C U R R Y, police officer, attached to the 29th Precinct, called as a witness on behalf of the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. EDWARDS:

MR. EDWARDS: Counsel consents to the admission in evidence of this diagram which I hold in my hand, subject to any corrections which may be deemed to be necessary in the course of the trial?

THE COURT: Received.

(Same received in evidence and marked people's exhibit No.1, of this date)

MR. EDWARDS: This is a diagram of East 53rd Street from Park Avenue over to Lexington, showing the street, the sidewalk on the north and south side, and the sidewalk on Park Avenue, on the north side of 52nd Street and on the west side of Park Avenue. It is a physical idea of the situation.

Q Officer, you are an officer of the Municipal police force of the city, are you not? A Sir?

Q You are an officer of the Municipal police force?  
A Yes, sir.

Q And have been for how long? A A year and ten months.

Q And how long have you been in that precinct?  
A A year and ten months.

CASE #2110

1079



Q Were you in that precinct on the 28th of October, 1914? A Yes, sir.

Q Where were you on post on the afternoon of that day between three and four o'clock? A Park Avenue, 45th Street to 59th.

Q And your post ran on Park Avenue from 45th to 59th? A Yes, sir.

Q Did anything occur on your post that afternoon which attracted your attention? A Yes, sir.

Q Just a moment. You say your post ran from 45th to 59th. Did you have any of the side streets? A Yes, half a block east and west.

Q Half a block between Park and Lexington, to the east? A Yes, sir.

Q And half a block between Park and Madison, to the west? A Yes, sir.

Q That covered the whole length of that post? A Yes, sir.

Q Tell us if anything occurred which attracted your attention? A About three fifteen, I was on the south crossing at 51st Street and Park Avenue, and a small boy ran down to me.

Q Don't say what he said to you. Did he say anything to you? A Yes, sir.

Q And as a result of what he said where did you go? A 53rd Street and Park Avenue.

CASE #2110



BY THE COURT:

Q 51st Street? A Your Honor, I was on 51st Street and I went right to 53rd, on Park Avenue.

Q 53rd? A Yes, your Honor.

BY MR. EDWARDS:

Q On which side of the Avenue? A On the east side of Park Avenue.

Q When you got to that corner, which way did you turn?  
A East on Park Avenue, on 53rd.

Q North, or south side? A South side.

Q What did you see on the street? A A woman laying  
on the gutter.

Q When you say on the gutter, do you mean out on the roadway? A On the roadway, yes, sir.

Q About how far from the curb? A About three or  
four feet from the curb.

Q Was there any crowd there? A Yes, there was a number of people around.

Q Had you ever seen this woman before? A No, never.

Q And what did you observe about her? A Well, she was laying on the roadway, and blood all over her waist.

Q And what did you do? A I inquired if anybody around --

Q Don't tell what you said. What did you do with respect to the woman, anything? A Yes, sir.

CASE #2110



Q What? A Assisted her ~~max~~ into the sidewalk.

Q You what? A We took her up against the building line.

Q You took her onto the sidewalk? A Yes, sir.

Q Was she able to walk? A No.

Q Did you have to carry her? A We had to carry her.

Q Did you make any examination of her at all?

A No, I immediately summoned for an ambulance.

Q How long was it before an ambulance came?

A About ten minutes, I should say.

Q And from what hospital? A Flower Hospital.

Q And after the ambulance arrived what was done with respect to the woman? A Removed to the station house, in the ambulance.

Q Taken to the hospital? A No.

Q Did the ambulance surgeon examine her at all?

A Yes, sir.

Q And then took her in the ambulance to the station house? A Yes, sir.

Q What station house? A 51st precinct-- 29th precinct.

Q Where is that? A 51st Street and Third Avenue.

Q Did you at any time feel the woman's pulse? A No sir

Q Where did you next see the body after it reached the 29th precinct? A In the morgue.

CASE #2110



Q When? A The following morning.

Q Did you see Doctor Lehane there? A Yes sir.

Q And did you identify this body to him? A Yes sir.

Q As that of the woman you found at that location the day before? A Yes, sir.

Q And had you learned hername by that time?

A Yes, sir.

Q What was it? A Barbara Wright.

Q Was the body that you identified as that of Barbara Wright to the Coroner's physician Lehane, the same body that you saw lying on the street in 53rd Street, as you described it was? A Yes, sir.

Q Did you afterwards go back to the morgue and get her clothing? A Yes, sir.

Q I show you certain articles of clothing, officer, and ask you if these are the same ones? A (After examining clothing) Yes, sir.

MR. EDWARDS: I ask to have that marked for identification.

(A woman's waist is marked people's exhibit No. 2, for identification, of this date)

Q That article of clothing, officer, is the waist or coat the woman was wearing on that day? A Yes, sir.

Q The same one she was wearing when you found her lying on the street? A Yes, sir.

CASE #2110



Q Where did you take the clothing to? A To the District Attorney's office, the fourth floor in the building here.

Q And each article is tagged with your name and initial?

A Yes, sir.

Q When you first saw the body lying on the street, did you notice any marks on it at all? A No, sir, just the blood stains on the white waist.

Q You did not examine to see whether there were any wounds that showed on the outside? A No, sir.

Q That is, you at once bent all your energies to getting an ambulance? A Yes, sir.

Q You were not present at the autopsy, were you?

A No, sir.

Q When the ambulance surgeon arrived, was the woman still living? A No, sir.

Q Now, officer, I show you a letter, consisting of two sheets, and ask you if you ever saw that before? (handing papers to witness)? A (After examining papers)? A Yes sir.

Q Where did you first see it? A I found it in the woman's clothing.

Q Whereabouts in her clothing? A In her side pocket.

Q The outside pocket of what? A Of her dress, I think it was.

Q Of her dress? A Yes, sir; I think it was in the pocket of her dress.

CASE #2110



MR. EDWARDS: I ask to have those two sheets marked for Identification at this time?

THE COURT: Mark it for Identification.

(Two sheets of paper are marked, respectively, people's exhibit No. 3, and people's exhibit No. 4, for Identification, of this date)

MR. EDWARDS: Your witness.

CROSS EXAMINATION BY MR. MOORE:

Q I would like to have the officer locate, if he will, on people's exhibit No. 1, just where the body lay when you saw it? This is 53rd Street; that is Park Avenue, and this is Lexington Avenue (indicating on diagram, people's exhibit No. 1). You were on 51st Street; you were coming up?

A I came up Park Avenue.

Q And turned into 53rd Street? A Yes, sir.

Q Now, about where did the body lie? A This is the south side of 53rd Street (indicating on diagram, people's exhibit No. 1)?

Q This is the south side, yes (indicating on diagram, people's exhibit No. 1)? A I should say about here, (indicating on diagram, people's exhibit No. 1).

Q Mark that with a pencil mark. Somewhere about there? A There is a grocery store across the way; there is a watering hydrant some place here (indicating on diagram, people's exhibit No. 1).

CASE #2110



Q About how far from the corner was it? A I should say in the neighborhood of a hundred feet or so.

Q From the curbing on the corner, or from the building?

A From the Park Avenue line.

Q From the curbing? A Yes, sir.

Q About a hundred feet down? A Yes, sir.

Q About a hundred feet east? A Yes, sir.

BY MR. EDWARDS:

Q You know the big apartment house on the south side?

A Yes, sir.

Q About where with respect to the apartment house, the east end, the west end, or the middle? A About the middle

Q Near the middle? A Yes, sir.

Q This is the apartment house, running to here (indicating on diagram, people's exhibit No. 1)? A Yes.

MR. MOORE: Better erase that mark, then.

(Erasing cross mark on diagram)

THE WITNESS: There is an apartment house across the way.

Q There are three or four across the way. There is a saloon on the corner? A Yes.

Q Then the grocery, then an open court, then a big apartment house, then a smaller one, then another big one, and then a saloon? A I think it was about here (indicating on diagram, people's exhibit No. 1)

CASE #2110



BY MR. MOORE:

Q Officer, I want you to fix it, if you know, but I don't want you to guess at it, whether it was this big apartment house on the south side. Now, can you bring that fact to your mind and tell just where in front of that apartment house she laid? A I should say about here (indicating on diagram, people's exhibit No. 1).

Q Indicate it with a cross mark? A Yes, about there (marking on diagram, people's exhibit No. 1.)

MR. MOORE: That is all, officer.

RE DIRECT EXAMINATION BY MR. EDWARDS:

Q And that is your best recollection, officer?

A Yes, sir.

Q Because you did not measure it at the time; you were busy doing other things? A Yes, sir, I didn't measure it.

MR. EDWARDS: That is all.

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G E O R G E I S A A C F E N N, called as a witness on behalf of the people, being first duly sworn, testified as follows:-

(The witness states that he resides at No. 322 West 17th Street)

DIRECT EXAMINATION BY MR. EDWARDS:

Q Now, George, try to keep your voice up loudly enough for these gentlemen here to hear you. They want to hear all you have to say? A Yes, sir.

CASE #2110



Q Where do you work? A I am not working at the present time, but I was.

Q Where was your last place of employment? A McCale Soda Fountain Company.

Q Where is their place of business? A 256 West 23rd.

Q Do you remember the 28th of October, a year ago?  
A Yes, sir.

Q And where were you working that day? A For Charles & Company.

Q Charles & Company, on 43rd Street and Madison Avenue?  
A 43rd Street and Madison Avenue.

Q And what were you doing for them? A I was wagon boy.

Q A driver on the wagon, and you were the wagon boy?  
A Yes, sir.

Q Do you remember where you were with the wagon on the afternoon of that day? A Yes, sir.

Q Where? A On 53rd Street, between Park and Lexington Avenue.

Q And was your wagon -- were you driving the wagon, or were you standing still, or what? A I was standing up against the fence, and the wagon was out in the gutter.

Q Where was the wagon? A The wagon was on--

Q People's exhibit No. 1 is a diagram (exhibiting people's exhibit No. 1 to witness). Here is 53rd Street,

CASE #2110



and here is Lexington Avenue, and here is Park Avenue?

A Yes, sir.

Q Now, where was your wagon standing? A Right here (indicating on diagram, people's exhibit No. 1)

Q That is just-- A Outside of this delivery entrance.

Q Outside of the delivery entrance of the big apartment house that runs from 52nd to 53rd Street on Park Avenue?

A Yes, sir.

Q And which way was the horse headed? A Towards Lexington.

Q And about where, as you recollect it now, would this I mean head have come, with respect to the open court?

A Down towards Lexington Avenue.

Q Was the head of the horse on a line with the apartment house, or on a line with the open court, or east of it, or west of it? A About here (indicating on diagram, people's exhibit No. 1).

Q Just put a mark where the horse's head would have come, will you, about? A About here (marking on diagram, people's exhibit No. 1)

Q And what sort of a wagon was this? A A one horse.

Q A one horse delivery wagon of Charles & Company?

A Yes, sir.

CASE #2110



Q And, of course, the wagon was all to the west of the horse's head, the horse's head was facing east, towards Lexington Avenue? A And the wagon was facing Park Avenue.

Q The tail board was towards Park Avenue? A Yes sir.

Q Where were you standing, George? A By this iron fence here (indicating on diagram, people's exhibit No. 1)

Q Put a cross mark where you were standing?

A Right here (marking on diagram, people's exhibit No. 1)

Q And where was the driver at that time? A Up here, in this building, (indicating on diagram, people's exhibit No. 1).

Q He had gone in that apartment house to make a delivery, had he? A Yes, sir.

Q Well, while you were standing there, did you notice anything? A Yes, sir.

Q What? A Well, over here where this cross is here (indicating on diagram, people's exhibit No. 1) a man and lady was standing.

Q Were they standing on the sidewalk, or on the street? A On the sidewalk.

Q And did you notice the man, what he looked like?

A Yes, sir.

Q What did you see them do? A Well, they was talking together there.

Q You couldn't hear what they said, I suppose?

A No, sir.

CASE #2110



Q What did you see either of them do? A Well, they was both talking together.

THE COURT: Speak out, speak out.

THE WITNESS: They were both talking together.

Q Then what happened? A Well, I seen the lady back into the mud gutter.

Q When you say the mud gutter, you mean off the curb into the street? A Yes, sir.

Q In which direction? A Towards Lexington Avenue.

Q In that direction? A Yes, sir.

Q You say she backed off? A Both backed off the mud gutter.

Q How far did she go?

MR. MOORE: I think he ought to tell from here on his own story in his own way. After he has told it he may refresh his recollection, but he is getting now down to the time of the killing.

A Well, she went out into the mud gutter, and to my estimation she tripped over a sewer plate and fell backwards.

Q And whereabouts was that in the gutter?

A Well, my wagon was standing here, and there is a sewer plate right out here (indicating on diagram, people's exhibit No. 1).

Q Yes. A And she tripped over the sewer plate and fell backwards.

CASE #2110



Q You say she backed off the curb. How did she get back here? A She fell down that way.

Q Did she go forward, or backwards? A Backwards.

Q And what was the man doing all that time?

A He was going right after her.

Q Following her up? A Yes, sir.

Q Now, what did you do when you saw her go off the curb, anything? A No, sir, I stood and minded my own business.

Q You stood where you were? A Yes, sir.

Q Could you see her all the time? A Yes, sir.

Q Then what happened when she got back there? A I was standing over here (indicating on diagram, people's exhibit No. 1), and I seen her fall, and as she fell I seen the man make a move with his right hand down towards her neck, but I seen no knife.

Q What was the position of his hand? You are illustrating. I want to get it on record. What did you ~~see~~ say you saw him do? A He went down with his hand, down like on the ground to her.

Q Whereabouts on her body? A On her neck.

Q And then what happened? A Well, after he hit her he ran up towards Park Avenue.

Q Where were you then? A I was standing still here. (indicating on diagram, people's exhibit No. 1), and when I seen him hit her on the ground I ran after him, and he went on the

CASE #2110



sidewalk, and there was some people standing up here (indicating on diagram, people's exhibit No. 1)

Q Before you go on any further, tell me this: Was there any time when your wagon obscured your view of this woman and this man? A Yes, sir.

Q When was that? A When he went out in the gutter after her, but I seen her fall, and walked up towards my wagon a bit.

Q That is to say, there was a time when she left the gutter-- when she left the curb and he followed her down when your wagon shut off your view of both? A No, sir; I seen them all that time, when they went in back of the wagon.

Q There was a time when they were in back of the wagon? A Yes, sir.

Q And you did not see them? A No, I did not see them then, but when they come down towards the place where she fell.

Q Was that where you could see her then? A Yes, sir.

Q And you could see him, too? A Yes, sir.

Q And was it the same man you had seen her talking to on the sidewalk? A Yes, sir.

Q When the man started to run towards Park Avenue, what did you do? A I ran after him.

Q And where did you-- tell us what you did? A I went and out into the gutter and ran right after him; I ran around Park Avenue, and seen some chauffeurs that had their cars standing on Park Avenue.

CASE #2110



Q In front of the apartment house? A Yes, sir.

Q Where did he run, on the sidewalk, or street, or where? A He was running out in the gutter.

Q Where did he reach the sidewalk first after he left her? A After he run about here (indicating on diagram, people's exhibit No. 1), and there was some people standing here (indicating on diagram, people's exhibit No. 1), and went off the gutter again, and ran outside, on the side of the street.

Q And how far did you follow him? A I followed him around the corner.

Q Did you see where he went? A Yes, sir.

Q Where did he go? A Down 52nd Street.

Q Which direction, east or west? A Towards Lexington Avenue.

Q And what did you do then? A I went back to the woman, and seen her laying there.

Q You went back to your wagon, and saw the woman lying there? A Yes, sir.

Q Had you ever seen that woman before? A No, sir.

Q Had you ever seen that man before? A No, sir.

Q Have you ever seen him since? A Yes, sir.

Q Where did you see him next? A Headquarters.

Q Is he in this court room now? A Yes, sir.

Q Show us where he is? A (Witness indicates the defendant)

CASE #2110



Q Do you mean the man sitting there (indicating defendant)? A Yes, sir.

Q Are you sure that is the same man? A Yes, sir.

Q When you got back to where your wagon was and the woman, what did you do? A Well, I went over and looked at there her, and ~~xxx~~ was some lady putting her handkerchief to where the cut was.

Q Did you see her cut in the neck? A Yes, sir.

Q Then what did you do? A Well, I stayed around there.

Q For how long? A Well, until she was taken away.

Q You saw the ambulance come? A Yes, sir.

Q And the doctor? A Yes, sir.

Q And saw her taken away, did you? A Yes, sir.

Q Then, I suppose you and your wagon went back to the store? A Yes, sir.

Q Now, did any one else chase this man besides you that you saw? A Well, a messenger boy went down towards Lexington Avenue, and I told some other man to chase him.

MR. MOORE: That is objected to.

THE COURT: The objection is sustained.

Q Did you see anybody chase him? A Yes, sir, I told some fellow to chase him.

BY THE COURT:

Q The messenger boy went with you, did he?

A No, sir, he went down towards Lexington Avenue, on 53rd

CASE #2110



Street.

BY MR. EDWARDS:

Q He went the other way, around towards Lexington Avenue? A Yes, sir.

Q Was that after you came back, or while you were chasing him, or when? A While I was chasing him.

Q Did anybody else chase him down Park Avenue towards 52nd Street that you saw? A Yes, some gentleman.

Q You don't know who it was? A No, sir.

MR. EDWARDS: (To the jury, indicating on diagram): This is where he said he was standing, on the sidewalk; this is where he said the woman fell, and he saw the man strike at her. Here is where he said he was standing when he first noticed them, and there is where the horse's head was; the horse was facing east.

CROSS EXAMINATION BY MR. MOORE:

Q How old are you, George? A Seventeen, sir.

Q You say that you saw this man afterwards at police headquarters? A Yes, sir.

Q When was that? A (No answer)

Q That was last September, four or five weeks ago?

A Yes, sir.

Q And where did you first meet him at police headquarters? A In a room, in the line-up.

Q Where? A In the line-up.

THE COURT: You mean last month?

CASE #2110



MR. MOORE: Yes, at headquarters.

THE WITNESS: Yes, sir.

Q Didn't you see him before you saw him in the line-up? A No, sir.

Q Didn't you see him when he was in the detective bureau? A Well, that is in headquarters, you mean?

Q Yes? A Yes, sir.

Q The same day, before you saw him in the line-up, didn't you see him in the detective bureau? A No, sir.

Q Did you look into the door at this man when he was talking with a lieutenant detective? A No, sir.

Q Sure about that, George? A Yes, sir.

Q Were you in the detective bureau that day? A No, sir.

Q Before you were in the line-up? A I went in the building and asked--

Q Were you in the ~~the~~ detective bureau before you saw this man in the lineup? A I knocked at the door and the sergeant, he come rushing out and nearly pushed me off my feet.

Q That was at the detective bureau door? A Yes sir.

Q They opened the door to you when you were knocking at the door? A I didn't have a chance --

Q Never mind what you had to do. They opened the door then, didn't they? A I am telling you--

Q Did they open the door when you knocked? A Yes sir.

CASE #2110



Q And didn't you see this man in there sitting talking to the police officer at that time? A No, sir.

Q Did you see anybody in there at that time?

A Yes, sir, a couple of gentlemen.

Q Who did you see? A I really couldn't tell you that.

Q Could you tell anybody that you saw in there?

A No, sir.

Q You looked in, didn't you? A Sergeant Willamese shut me--

Q Did you look in there? A Of course I looked in.

Q Did you see anything when you looked in? A I seen a couple of gentlemen in there.

Q Can you describe the couple of gentlemen that you saw? A No, sir.

Q Not at all? A No, sir.

Q You couldn't say that this was one of the gentlemen, (indicating defendant)? A No, sir.

Q And yet you did see two? A I did see some gentlemen, yes.

Q And you saw a man in plain clothes there, did you not? A Yes, sir.

Q And you can't say this is the man you saw there? A No, sir.

Q And yet within ten minutes after that you picked

CASE #2110



him out in the line-up, didn't you? A Yes, sir.

Q And you couldn't identify him now or then as the man you had seen in that detective bureau ten minutes earlier?

A Yes, sir, that is the man I picked out.

Q I know that is the man you picked out in the line-up, but can you now say when you looked into the detective bureau that this is the man that you saw? A No, sir, I cannot say that.

Q You can't describe in any way at all the man you saw ten minutes before you saw this man in the line-up, can you?

A No, sir.

Q Can't tell whether he had a mustache or beard, or smooth shaven, or what not? A No, sir.

Q And yet you were going there to identify the man that you saw stab this woman, were you not? A Yes, sir.

Q And there was not anything in the appearance of the man that you saw in the detective bureau that suggested him as the man, was there? A No, sir.

Q Now, you saw the defendant, of course, within ten minutes after you saw the man in the detective bureau, didn't you? A Yes, sir.

Q And you were sent there to identify the man, were you not? A Yes, sir.

Q How many men were in the line-up ten minutes after you looked into the detective bureau and saw a couple of gentlemen

CASE #2110



there? A Ten or twelve of them.

Q Can you describe any of the other men in the line-up, their appearance in any way? A Well, they were all about one size.

Q Can you describe any of them? A No, sir.

Q Not at all? A No, sir.

Q Can you tell whether the other nine or ten had any mustache, or beard, or were smooth shaven, or what not?

A They were all smooth shaven.

Q All smooth shaven but this one, were they not?

A Yes, sir.

Q Now, the man that you saw, as you claim, that did the stabbing, you thought had a black mustache, didn't you?

A Yes, sir.

Q And you so stated at the time that the man that did the stabbing had a black mustache? A A dark mustache.

Q Black, I said? A A dark mustache.

Q Did you say black? A No, sir, I did not. I said dark.

Q Do you say that is a dark mustache (indicating defendant)? A Yes, sir.

Q Isn't that a sandy mustache? A It is on the shade of dark.

Q Did you notice whether or not there was a dark mustached young man sitting in the detective bureau just a

CASE #2110



few minutes before you saw this defendant in the line-up?

A No, sir.

Q It had been almost a year since you saw this man up there on 53rd Street, hadn't it? A Yes, sir.

Q Could you tell how he was dressed on that occasion?

A Well, he had a dark suit--

Q Could you? A He had a dark suit of clothes on.

Q How dark? A Well, a brown, a dark brown, and he had a cap on.

Q What kind of cap? A A light cap.

Q Do you know what kind of shoes he wore? A No sir, I couldn't tell you that.

Q You now say that this man followed the woman up when she backed down into the gutter? A Yes, sir.

Q And he was right next to her when she fell?

A Yes, sir.

Q You were sworn, were you not, in the coroner's court in this proceeding? A Yes, sir.

Q And that was only about four or five weeks ago, wasn't it, to be exact? A In the Coroner's Court?

Q No, on November 23rd, 1914? A Yes, sir.

Q You were sworn there then, were you not? A Yes sir.

Q Did you there swear that, "I saw this party standing about fifty feet away from the woman when this lady backed into the gutter"?

CASE #2110



MR. EDWARDS: Show me where you are reading from, please.

MR. MOORE: Yes, I am reading from his testimony.

MR. EDWARDS: I submit on that question my transcript does not agree with counsel's, and I submit we ought to have the stenographer here.

MR. MOORE: I may be in error. I have got the one that is filed; that is all I know about it.

THE COURT: What you have purports to be a copy of this?

MR. EDWARDS: I have what was supplied me by the stenographer as a copy of his notes, not necessarily a copy of that.

MR. MOORE: This is what the Coroner' returned as his inquest. It may be possible that a page has gone out.

MR. EDWARDS: No, this is the same thing. The only difference is where ~~they~~ your copy reads "woman", my copy reads "wagon". It makes a very material difference.

MR. MOORE: Yes, I should say it does, a very decided difference.

THE COURT: Well, we have both a woman and a wagon in the matter.

MR. MOORE: I think it is of so much importance it ought to be verified, one way or the other. Will you

CASE #2110



have the stenographer here to-morrow morning?

MR. EDWARDS: Of course, if there is a difference of opinion, we ought to have the stenographer.

MR. MOORE: I can express no opinion. I have the official return, and that is all I know about it.

MR. EDWARDS: I think he should proceed, and afterwards if he wants to prove a contradiction he could produce the stenographer.

MR. MOORE: No, I want to ask him what he swore to before, and then use the contradiction. If these minutes are incorrect, this cross examination for the purposes of contradiction would be useless, because it would make no basis for a contradiction. I think I will ask to suspend the further cross examination of this witness until we can determine what these minutes are.

THE COURT: Can't you do something else, Mr. Moore?

MR. MOORE: That is the only purpose of cross examination now, is with reference to what he testified to before the Coroner. I don't desire to interrogate him further, only as to that. Just suspend with that until we can determine what the facts are.

MR. EDWARDS: Go on and examine on the theory that "woman" is correct, and we will find out afterwards.

MR. MOORE: I think we are wasting time.

THE COURT: I shall assume, if that is the original, that it is correct. Of course, you can bring the steno-

CASE #2110



grapher here to show that perhaps it is an error.

Q Did you swear to that, "I saw this party standing about fifty feet away from the woman when this lady, the de-  
backed  
ceasdd into the gutter"? A I told that--

Q Did you swear to that, boy? A No, sir, I did not.

Q Anything like that? A No, sir.

Q "And my theory was that she stumbled over a plate"?

A Yes, sir.

Q What? A Listen to me.

Q No, no, did you swear to that-- "My theory was that she stumbled over a plate"? A Yes, sir.

Q Then, you did not see anybody strike her--

MR. EDWARDS: Read it as it appears there.

MR. MOORE: "A sewer plate".

Q You did not see anybody strike her then when she fell?

A Yes, sir.

Q Or before she fell, I mean? A When she fell.

Q No, before she fell? A Before she fell, no sir.

Q Didn't see anybody strike her before she fell?

A No, sir.

Q And it was after she fell that you say you saw the defendant went down with his hand up; is that what you say?

A With his hand down; he went with his hand down.

BY THE COURT:

Q The woman was on the ground then? A Yes sir.

CASE #2110



BY MR. MOORE:

Q Did you say then, "As she fell down he went down with his hand up"; is that what you swore to before the coroner? A Will you let me talk to you?

Q No, no. Just that? A Let me tell my story.

Q No, no. You have told it once. Did you swear to that before the Coroner -- "As she fell down he went down with his hand up"? A He went down that way (illustrating).

MR. MOORE: I move to strike that out, if the court pleases. He has already said it.

THE COURT: Strike it out.

Q Did you hear that question? "As she fell he went down with his hand up". Did you swear to that? A As she fell he went down with his hand up?

Q Yes. A (No answer).

BY THE COURT:

Q Do you remember testifying to that effect?

A Yes, sir.

Q Did you? A Yes, sir.

BY MR. MOORE:

Q Well, is it a fact now that when she fell down he went down with his hand up? A How could he go down with his hand up?

Q Now, stop arguing. You say you testified to that before the Coroner. Now, I ask you is that a fact?

A How could the gentleman go down with his hand up?

CASE #2110



THE COURT: You must answer the question.

MR. MOORE: I move to strike his answer out, if the Court please.

THE COURT: Strike it out.

Q Is it a fact that when she fell he went down with his hand up? A No, sir.

Q Then, that is a mistake which you made before the Coroner? A How could the gentleman go down--

Q Were you mistaken before the Coroner? A No, sir, I was not. I told what I knew.

Q You just told the Court you swore to that before the Coroner? A I told what I knew.

Q Didn't you say a moment ago, it is true that you testified before the Coroner that when she fell he went down with his hand up? A He went down that way (illustrating).

Q Never mind now saying so, but ~~you~~ is it true--  
A Certainly it is true.

Q That you testified before the Coroner that when she fell he went down with his hand up? A No, sir.

Q You did not so testify, then, is that what you mean?  
A Yes, sir.

Q I am not asking whether it was a fact, but I am asking whether you gave that testimony. Do you understand me?

A Yes, sir.

Q And you did not give such testimony? A I told that fellow--

CASE #2110



Q No, you didn't give such testimony, did you?

A No, sir.

Q Were you asked if you saw a knife? A Yes, sir.

Q And you didn't see any knife, did you? A No, sir.

Q Well, now, were you <sup>so</sup> close to this man that you could not identify him, but identified him a year later, and yet you couldn't see him stab the woman three times with the knife?

A I seen him stab her once.

Q No, you didn't see him stab her at all, did you?

A No, but I seen him make a hard motion towards her.

Q I understand that; you say that now, but you couldn't see the knife? A No, sir.

Q Were they so far away from you that you couldn't see the knife? A No, they wasn't very far away from me.

Q According to your story, they were within twenty-five or thirty feet of you? A No, they were only fifteen feet away from me.

Q And yet you couldn't see this man with a knife in his hand stabbing at the woman first in the throat and twice in the chest? A No, sir, he stabbed her once as she went down.

Q You don't know that he stabbed her at all, do you?

A No, sir.

Q Why do you say he stabbed her? A Because when I went back I saw the stab wound.

Q But you didn't see the stabbing, did you?

A No, I didn't see the stabbing.

CASE #2110



Q And yet you told me you were within fifteen feet of this man and woman, and didn't see him stab her?

A I didn't see no knife.

Q You didn't see him stab her then, did you?

A No, I didn't see him stab her, but I seen a hand motion towards the woman's throat.

Q And that was only once? A Yes, sir.

Q You didn't see the other two motions when he stabbed her in the chest, did you? A No, sir.

Q And you were watching him all the time, you say?

A Yes, sir.

Q You had never seen the man before in your life, had you? A No, sir.

Q And when he ran of course he ran so that you were seeing the back of his head rather than his face, was it not?

A Yes, sir.

Q And after the woman fell, whoever it was immediately ran down Fifty-third Street, going east, did he not?

A Who ever it was?

Q Who ever the man was, immediately after the woman fell, ran down 53rd Street towards Lexington Avenue, did he not? A This man ran towards Park Avenue, and around Park down towards 52nd and down 52nd.

Q Which ever way he was running, it was so that he immediately turned his face from you, was it not?

CASE #2110



A Yes, sir, but he turned back and looked at me after I hollered at him.

Q He turned around and looked at you? A Yes sir.

Q Sure about that, my boy? A Positive.

Q He wanted you, I suppose, to be sure and identify him the next time you saw him? A I guess not. I guess he looked back to see if she was still lying there, or something.

Q He didn't say anything when he turned around?

A No, sir.

Q This fellow who stabbed the woman was going pretty fast after the stabbing, as fast as a man could run, apparently?

A Yes, sir, I guess so.

Q And he took the time to turn around and look at you?

A Yes sir.

Q And that is how you happened to identify him in the police station a year later? A Yes, sir.

Q This little peep you had in the detective bureau didn't help you in identifying him, did it? A Certainly it did.

Q Not a bit? Oh, it did? Then, it was not necessary to put him in the line-up for you to identify him ten minutes later, was it? A What is that again, sir?

(Question read by stenographer, as follows:- "Then

it was not necessary to put him in the lineup for you to identify him ten minutes later, was it?")?

CASE #2110



A What is that question?

Q You said that the peep you had through the door in the police station, in the detective bureau, helped you to identify him in the line-up? A Oh, no, no.

Q You misunderstood me then? A Yes, sir.

Q It did not help you in the lineup? A Did not help me.

MR. MOORE: That is all.

RE DIRECT EXAMINATION BY MR. EDWARDS:

Q Tell us just what happened when you went to <sup>the</sup> police headquarters, detective bureau door and knocked? A I went in police headquarters, and a gentleman directed me to that door; I think it was room 102.

Q And what did you do then? A And I knocked at the door, and as the door opened Sargeant Willemese ran out-- walked out pretty fast, and nearly pushed me off my feet.

Q Did you get any chance to really see into the room at all? A Just one little peek.

Q Did you see anybody you had ever seen before?

A No, sir.

Q Or anybody you recognized at all? A No, sir.

Q Sargeant Willemese is a pretty big man, isn't he?

A Yes, sir.

Q Is this the sergeant Willemese you mean (indicating ~~S~~ Sargeant Willemese)? A Yes, sir.

CASE #2110



Q That is the man, is it? A Yes, sir.

Q And when you weretestifying before the Coroner and spoke about the man with his hand up, did you illustrate the way you did here when you testified on the stand?

MR. MOORE: Objected to as improper, incompetent and calling for a conclusion of the witness.

THE COURT: You may have an exception. He may answer.

MR. MOORE: I take an exception.

Q Did you? A Sir?

Q When you testified in the coroner's court about the man making a pass at the woman, did you illustrate the way when you testified here on the stand here? A Did I illustrate?

Q Did you show what you meant by the hand up?

A The lady was laying on the ground.

Q Did you do that in the Magistrate's Court?

THE COURT: Just heed what Mr. Edwards is asking you. Take your time and answer the questions, but thoroughly understand it before you try to answer.

Q When you testified here to-day about the man making a strike at the woman, as you sat there in the chair when you gave that testimony, you raised your hand and made a motion, like that (illustrating)? A Yes, sir.

Q Did you do that in the coroner's court? A Yes sir.

Q Just the same way you did it here? A Yes sir.

CASE #2110



MR. MOORE: I renew the objection. I suppose your Honor makes the same ruling?

THE COURT: Yes.

MR. MOORE: I take an exception.

Q Now, when this man was standing, as you have described, talking to the woman, on 53rd Street, at a point on the sidewalk opposite this cross, as you have pointed out, how far was he away from the woman (indicating on diagram, people's exhibit No. 1)? A He was right in front of her.

Q How close to her? A Well, say about three to five feet.

Q Was he as close as I am to you? A Yes, sir. No, not as close. A little further away. About five feet.

MR. MOORE: Objected to as already gone over.

Q Then, when she started across the street, did he get any closer to her, or did he stay as far away from her?

MR. MOORE: Objected to as leading; second, the witness has already testified upon the same case as to the whole transaction.

THE COURT: The objection is overruled.

MR. MOORE: I take an exception.

Q You may answer, George? A Well, she walked down backwards.

Q Speak louder? A She walked down backwards, and he followed her, but I can't really tell you how far they were apart.

CASE #2110



Q Now, as they came down here, as you said on your direct, there was a time when they were behind your wagon?

A Yes, sir.

Q And then the next time you saw them was when they came out from behind the wagon? A Yes, sir.

MR. MOORE I object to this, if the Court please, upon the ground he has been all over that.

THE COURT: Let it stand.

Q Now, was there any time while they were standing talking and while the woman was going towards this sewer plate where you say she fell when you could see this man's face?

A Yes, sir.

Q Tell me what part of his body was towards you at the time the woman backed off onto the street and the man followed her up? A The right side of the gentleman.

Q And could you see his face then? A Yes, I could see his side face.

Q When they came out from behind your wagon again and she fell on the sewer plate, could you see his face then?

A No, sir.

Q You could not then? A No, sir.

Q How was he standing then with respect to you?

A Right side.

Q His right side was towards you? A Yes, sir.

Q And what concealed his face from you then, or which way was he facing then? A Facing towards that side of the

CASE #2110



street. (indicating)

Q That would be towards the north? A Yes, sir, up that way (indicating).

Q Towards the north? A Yes, sir.

Q And at that time you could not see his face?

A No, sir.

Q When was the next time after that that you did see his face? A When he was running away and he looked back.

Q And was that the face of the same man you had seen talking to the woman? A Yes, sir.

Q Now, George, you told counsel on cross examination about ~~xx~~ picking this man out in the line-up. Did anybody tell you who to pick out? A No, sir.

MR. MOORE: Well, that I object to, if the Court please. He can show later that this man was in the detective bureau and he says he saw the two men who were there. That is all we claim for it.

THE COURT: Objection overruled.

Q Did anybody point him out to you? A No, sir.

Q And did you see him at the headquarters anywhere until you saw him in the line-up? A No, sir, I did not.

MR. EDWARDS: That is all.

RE CROSS EXAMINATION BY MR. MOORE:

Q However large this officer was that came to the door in that fast walk, when he opened it he was not big enough but

CASE #2110



so you could see him? A He only opened the door a little ways.

Q You could see him? You did see him? A I only seen what I could see.

Q Did you see him? A Certainly, I seen him.

Q And you saw that man in there? A No, I didn't see no man. I seen a few fellows.

Q Didn't you see any men in there? A Yes, sir, a few fellows.

Q You said two before? A A couple.

Q Two? A Yes, sir.

Q And you saw them, didn't you? A Yes, sir.

Q And you saw the detective in there with them, didn't you? A No, sir.

Q You saw nobody but the two men? A That is all I can really state.

Q You didn't see the police officer in uniform?  
A No, sir.

Q But you did see the two of them? A I saw two fellows.

MR. MOORE: That is all.

BY MR. EDWARDS:

Q Could you see the whole room, George? A No, sir, I couldn't.; he only opened the door on a small crack, and came rushing out.

Q You could only see a small portion of the room?

CASE #2110



A Yes, sir.

MR. EDWARDS: That is all.

THE COURT: Gentlemen, you wont discuss the case, not form nor express an opinion of it, but keep your minds open and free until the case is submitted to you. Be in your places at half past ten to-morrow morning.

(The Court then accordingly took an adjournment until tomorrow, Wednesday, October 20th, 1915, at 10:30 A. M.)

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CASE #2110



THE PEOPLE ETC.  
-against-  
PETRIUS C. Von den CORPUT.

New York, Wednesday, October 20th, 1915.

TRIAL CONTINUED.

PHILIP TERRANO, called as a witness on behalf of  
the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. EDWARDS:

Q Now, Terrano, remember this gentleman back here wants  
to hear everything you say, and speak just as loud as you can?

A Yes, sir.

Q Where do you live? A 135 West 60th Street.

Q And who do you work for? A Sheffield-Farms,  
Slawson Decker Company.

Q Sheffield Farms Milk Company? A Yes, sir.

Q And you were working for them, were you, a year ago  
this month? A Yes, sir.

Q Keep your voice up; don't be afraid to make a noise.  
Do you remember the 28th day of October, last year? A Yes.

Q That afternoon what were you doing? A Well, I  
happened to be delivering an order, and as I was coming back  
I seen this here man talking to the woman.

Q Where were you delivering an order? A It happened  
to be up at 56th Street.

Q And what Avenue? A Lexington.

Q Now, where was the Sheffield Farms station where you

CASE #2110



worked? A Right at the corner.

Q Do you know the number? A 101 East 53rd Street.

Q I show you people's exhibit No. 1, a diagram, (handing same to witness). This is 53rd Street, and this is Park Avenue; you are looking north as you sit there? A Yes sir.

Q Here is Lexington Avenue, over here. Can you point out where the Sheffield Farms place of business is? that is the place marked on the diagram as 101, marked "Grocery and Dairy"; is that the one? A Yes, sir.

Q That is right on the north side of the street, right behind the saloon which is on the northeast corner of Park Avenue and 53rd Street? A Yes, sir.

Q Now, when you were returning from making your delivery at 55th Street and Lexington Avenue, how did you come back?

A I come up this here way (indicating on diagram, people's exhibit No. 1).

Q You came down Lexington Avenue and through 53rd Street?

A Yes, sir.

Q You indicate the north sidewalk; is that what you mean, going west? A Yes, sir.

Q Did you see anything as you went along that sidewalk that attracted your attention? A Yes sir.

Q What? A I seen this man talking to the woman, right here (indicating on diagram, people's exhibit No. 1)

Q That is, on the south side of the street? A Yes sir

CASE #2110



Q Opposite what building? A Opposite 375. apartment house.

Q That is the big apartment house on the easterly side of Park Avenue between 52nd and 53rd Streets? A Yes, sir.

Q Were they on the sidewalk, or on the street?

A On the sidewalk.

Q Did you know the woman? A I never seen the woman before.

Q To your knowledge? A No.

Q Had you ever seen the man before? A The day before I seen him.

Q Well, what were they doing? A Well, this here man and the lady were talking together on the street there, and as I was going in the store I seen that man running and a fellow after him.

Q Which direction did you see him run? A He went west on 53rd Street and down Park Avenue.

Q Down Park Avenue? A Yes, sir.

Q Did you watch them when you saw them talking together?  
A Yes, sir.

Q For how long? A I didn't watch them. I looked over and kept on going to the store.

Q And where were you when you saw the man running?  
A I was just about to go into the store.

Q And what attracted your attention then? A Well, I

CASE #2110



seen that man talking to the lady, and the lady had her back turned towards the man, and this man was facing towards me as I was coming up.

Q As you were coming west on the street? A Yes sir.

Q As you turned to go into the store, as you say, what attracted your attention then, if anything? A I heard a fellow yelling something, and I went out and I seen the man running, and I went up to Park Avenue, and I didn't see the man no more.

Q Where was he when you saw him running, how near Park Avenue? A Right there at the corner. (indicating on diagram, people's exhibit No. 1)

Q Just turning the corner? A Yes, sir.

Q Was there any one else that you noticed running?

A There was a telegraph boy running.

Q Any one else? A That is all.

Q And then what did you do? A I was just about to go into the store, and I seen the woman laying in the gutter, down there (indicating on diagram, people's exhibit No. 1)

Q When you say "the gutter", what do you mean? In the roadway, or on the sidewalk? A Out in the roadway.

Q Then what did you do? A I went down to her. By that time there was a crowd collected. Then I went down and I called an officer.

Q Where did you go when you first saw this man running?

CASE #2110



A I went up as far as the corner, and I didn't see the man after that. When I got up to the corner he was gone already.

Q Was there anything there to obstruct your view down 52nd Street? A I didn't just run up to the corner. I walked up.

Q And then he was gone? A He was gone by the time I got to the corner.

Q So you didn't see where he went? A No, sir.

Q Then you went back to the woman? A I was going back to the store, and as I turned back to go south on 53rd Street I seen the woman laying there.

Q To go east, you mean? A Yes, sir.

Q Where was she lying, about how far from the sidewalk?

A Just half a foot away from the sewer.

Q The sewer; you mean one of the sewer entrances in the middle of the street? A Yes, sir.

Q And did you go back to look at her at all?

A I went down there and by that time there was a crowd collected.

Q Then what did you do? A I went down and called an officer.

Q Do you know the officer's name? A No, sir.

Q Where did you have to go to get him? A 52nd street and Lexington Avenue.

Q Then how long did you remain there after that?

CASE #2110



A Well, I remained there about ten minutes, and I went with officer Curry then to the station house.

Q With officer Curry that was? A Yes.

Q Had you ever seen that man before? A I seen him the day before.

Q Where? A On the north side of 53rd Street.

Q North side of 53rd Street? A Yes, sir.

Q And whereabouts on the north side, can you tell us, about? A Just about here (indicating on diagram, people's exhibit No. 1).

Q Opposite this apartment house that is next to the open court which is to the east of your dairy? A Yes, sir.

Q At a point almost opposite the open court across the street? A Yes, sir.

Q Did anything attract your attention to him particularly at that time? A He was cursing and swearing at the time.

Q Did you hear anything that he said at that time?

A Well, I didn't pay no attention to him.

Q Did you watch him at all then? A No, sir.

Q Any crowd collect? A No, sir; very few.

Q And was he talking to any one in particular?

A No, sir, he was looking over at the building on the other side.

Q Looking over at the buildings on the other side?

A Yes, sir.

CASE #2110



MR. MOORE: Now, I move to strike out, if the court please, the day before he was cursing and swearing.

THE COURT: What is that, Mr. Moore?

MR. MOORE: I say, I move to strike out that he saw this man the day before, that he was talking to nobody, but was cursing and swearing.

THE COURT: Let it stand. Take an exception.

Q Now, Philip, when did you next see that man after this day when you saw him run down Park Avenue? A I didn't see him after that at all, except on the day I went down and identified him.

Q Where was that? A Down at police headquarters.

Q Is he in this Court room? A Yes, sir.

Q Will you point him out? A (Witness indicates)

Q Which one of these men do you mean? A The man in the corner there (indicating defendant)

Q Will you walk down and point him out, so we will be sure who you mean? A (Witness points to defendant)

Q Were you present when the ambulance came for this woman? A No, sir.

Q Now, is this man you have indicated in the court room the same man you saw run down Park Avenue? A Yes, sir.

Q And is he the same man whom you saw the day before on the north side of the street? A Yes, sir.

Q And the same man who was talking to the woman, as you

CASE #2110



described, on the 28th? A Yes, sir.

MR. EDWARDS: Your witness.

CROSS EXAMINATION BY MR. MOORE:

Q Now, will you tell me exactly where you were on the 28th of October when you first saw the man and woman together?

A I was walking on the north side of 53rd Street, and the man was facing north.

Q No, never mind. On the north side of 53rd Street, and where? A Between Park and Lexington Avenue.

Q What portion of the street? A I don't understand that.

Q Where were you, in what part of 53rd Street? You say it was between Lexington and Park Avenue. Now, whereabouts was it? A Right opposite the apartment house.

Q There is more than one apartment house on the street? A Right opposite 105 apartment house.

Q Which (handing diagram, people's exhibit No. 1 to witness)? A I was here (indicating on diagram, people's exhibit No. 1)

Q You were just opposite the large apartment house which is on 53rd Street and Park Avenue? A Yes, sir; I was opposite this house; I was coming up this here side, and the man and woman was talking here, and I come up this way and looked over (indicating on diagram, people's exhibit No. 1)

Q Indicate again. Had you passed the man and woman

CASE #2110



while they were talking? A I did, on the opposite side.

Q So that you had come up Lexington Avenue, as I understand you, and passed along 53rd street, going towards Park Avenue? A Yes, sir.

Q And had passed the man and woman that you saw talking?

A Yes, sir, on the opposite side.

Q How far past them had you gone before you noticed the man run? A Up here (indicating on diagram, people's exhibit No. 1), and as I was going in the store I turned around and seen the man running around Park Avenue and another fellow after him.

Q Around Park Avenue and towards 52nd Street?

A Yes, sir.

Q Did you hear any conversation between the man and woman as you passed them? A No, sir; I was too far away.

Q Well, you were on the opposite side of the street?

A Yes, sir.

MR. MOORE: The width of the street is what?

MR. EDWARDS: From building line to building line is sixty feet, and the roadway is about thirty feet-- twenty-nine feet and some inches.

Q Then you were within about forty feet of them, were you not, as you passed them? A Well, if from sidewalk to sidewalk is sixty feet.

Q From sidewalk to sidewalk is not sixty feet. From

CASE #2110



one wall to the other is sixty feet ? A Then I was about fifty feet from them.

Q There was nothing then in what they were doing at that particular time that would especially attract your attention, was there? A No, sir.

Q Now, when the man ran by you, you didn't see his face, did you? A No, sir.

Q You simply saw the man and woman talking in a tone so ordinary that you could not hear them across the street?

A Yes, sir.

Q That is a thing that you see almost constantly, is it not? A Yes, sir.

Q There was not anything in the appearance or conduct or conversation of either that would especially call your attention to them, was there? A No, sir.

Q You had, as a matter of fact, gone into the store, had you not? A I was just about going into the store.

Q Well, hadn't you, as a matter of fact, gone in? A No, sir.

Q I understood you to say upon your direct examination that when you heard the hollering you went out of the store; is that correct? A I just turned into the store, and I come right out again when I heard the hollering.

Q That is, your back was turned to the man when he was going by, whoever he was? A Yes, sir.

CASE #2110



Q Then you heard hollering, and you turned around and came back out? A Went out again, yes, sir.

Q And then you saw some man rounding the corner of 53rd, going into Park Avenue, towards 52nd? A Yes, sir.

Q Was he running fast? A Yes, sir.

Q You didn't get a very good look at him then, did you? A No, sir.

Q Didn't you say that the man that you saw had a black mustache, in describing him afterwards? A Well, I couldn't ~~gax~~ just get a very good description of him at the time.

Q I know you couldn't, and you didn't have a very good description of him, did you? A No, sir.

Q You never had a very good description of him, did you? A No, sir.

Q Because the look that you got at him was rather a fleeting one, wasn't it? A Yes, sir.

Q And you did say that the man that you saw talking with the woman had a black mustache, did you not? A Yes sir.

Q What? A Yes, sir.  
mustache,

Q You saw his, did you not? A From a distance.

Q Well, you saw it, didn't you? A Yes, sir.

Q And the day before this man that you saw that you say was cursing and swearing in front of a certain building, you passed by him on a walk, did you not? A Yes, sir.

Q Then, that day you had a good fair look at him,

CASE #2110



didn't you? A He was turned sideways, looking slanting at me.

Q Just answer me. Did you have a ~~fair~~ good, fair look at him on the day before, this man you saw who was cursing and swearing? A Well, I didn't take any particular notice of him.

Q Then, you didn't have a good look at him? A No sir.

Q And it was your recollection the man that you saw both upon the day preceding and upon the day when the woman was killed was a man with a black mustache, was it not?

A Yes, sir.

Q And you so reported to the police officials, did you not? A Yes, sir.

Q This man has not got a black mustache, has he? (indicating defendant)? A No, sir.

Q You know ~~the~~ decidedly so, do you not? A Yes sir.

Q And yet on the 27th you passed within two or three feet of the man that you now say was this man, did you not?

A Yes, sir.

Q Now, when you went to the police station and identified him, that was this last month, September of this year?

A Yes, sir.

Q Anybody with you? A What do you mean? Any one else to identify him? Yes, sir.

Q Who? A They are outside now, witnesses.

CASE #2110



Q You know their names, don't you? A No, sir.

MR. MOORE: May Fenn and Weinstein be brought in?

THE COURT: Yes.

Q Do you recognize these two men as the two men who were with you at the time you identified the defendant (indicating Fenn and Weinstein)? A The one over there (indicating)

Q Which one, please? A Mr. Weinstein.

Q The one standing next the officer? A Yes sir.

Q Wasn't the other young man, Fenn there? A No, he was not there that night.

Q Well, you had seen Fenn before, had you not?

A Yes, sir.

Q You had seen Weinstein before, had you not? A Yes.

Q You had talked both with Fenn and Weinstein about this matter, had you not, prior to that? A Yes, sir.

Q What? A Yes, sir.

Q On more than one occasion? A We just talked whenever we would meet.

Q What? A We just talked whenever we would meet.

Q What? A I say, we just talked whenever we would meet.

Q About the man that did the killing? A Yes, sir.

Q And how often did you meet, do you think, in the year or the eleven months from the 28th of October down to the time that you identified the defendant at police headquarters?

CASE #2110



A I met them every time I come down, either to this here place or up in police headquarters.

Q Now, that don't give us any information at all. How many times did you see either one of those men in that eleven months? A I don't know.

Q Well, quite a number? A Yes, sir.

Q And you discussed the man, did you not, each time you met? A No, sir.

Q Didn't say anything about how he looked? A No, sir.

Q Never a word? A No, sir.

Q You talked about the case? A Talked about the case.

Q Well, didn't you talk about the man? A No, sir.

Q Not a word to anybody? A No, sir.

Q You did talk to the police officers about the man, didn't you? A Yes, sir.

Q And on all occasions you said that this man that you saw had a black mustache, didn't you? A Yes, sir.

Q Now, when you went to the station house, or to police headquarters, Weinstein was with you? A Yes, sir.

Q And you and Weinstein were together at the time you picked him out, were you not? A We went in to identify him one after one.

Q One after one; what do you mean? A Well, they only allowed one man in the room at a time.

Q Before you went into this room where the line-up was,

CASE #2110



did you go to the detective bureau? A Yes, sir.

Q Did you see this defendant in that detective bureau?

A No, sir.

Q Did you see anybody in there? A I seen a couple of detectives.

Q Well, in plain clothes? A Yes, sir.

Q Well, do you know whether or not you saw this man there with the detectives (indicating defendant)? A No sir.

Q I ask you now do you know whether he was, or was not?

A He was not there at the time.

Q Sure of that? A Yes, sir.

Q Did Weinstein go with you when you went into the detective bureau, before you went to identify the man in the line-up? A No, sir, I come down alone and went into the detective bureau and asked for detective Landvoe.

Q I don't care what you asked for. How many men were in the lineup? A About twelve.

Q This was the only man that had a mustache, wasn't it? A There was more.

Q Well, was there more? A Yes.

Q How many more? A About six more.

Q Sure of that? A Yes, sir.

Q Any of them have a black mustache? A Yes sir.

Q About the size of this man? A Taller.

Q Can you tell us anything about any of the other men that were in the line-up? A Well, one man there was tall,

CASE #2110



had dark hair, a black mustache and a sort of round face and a dark suit.

Q Do you know how the man that you saw on the 28th of October was dressed? A Yes, sir.

Q How? A He had a brown suit and a cap.

Q Now, haven't you talked with Fenn about the way this man was dressed? A Yes, sir.

Q Haven't you talked with Weinstein about the way this man was dressed? A Yes, sir.

Q And after discussion with Fenn and Weinstein the three of you agreed that he had on a brown suit and a cap, didn't you? A I seen it.

Q And a black mustache? A Yes, sir.

Q Now, did Weinstein tell you that he had a brown suit on, or did you tell Weinstein? A I told -- he told me.

Q Did Weinstein tell you that he had a cap on, or did you tell Weinstein? A He told me. I seen him.

Q I am asking now-- you say you talked about the clothes. Now, did you tell Fenn that he had a brown suit on? A He told me, too.

Q Did you tell Fenn that he had a cap on? A No, sir.

Q Fenn told you that? A Yes, sir.

Q And you three got together, did you not, before you were examined in the coroner's court, and decided how the man was dressed, after a conference, didn't you? A Well, I--

CASE #2110



Q No, just that.

MR. EDWARDS: Do you understand the question?

If you don 't--

A I don't understand what you mean by that.

Q You and Weinstein and Fenn were all subpoenaed to attend the coroner's inquest last fall, were you not?

A Yes, sir.

Q In November? A Yes, sir.

Q Now, before you were sworn on the inquest, you and Fenn and Weinstein had a talk as to how the man was dressed, didn't you? A No, sir.

Q None at all? A No, sir.

Q When did you have the talk about how he was dressed?

A The day we seen it.

Q The day you saw him?

THE COURT: The day of the occurrence, is that it?

THE WITNESS: Yes, sir.

Q Didn't you ever have a talk afterwards? A Well, we talked, yes, sir.

Q No, about how he as dressed? A Yes, sir.

Q And at the day of the occurrence the three of you decided as to the way the man was dressed? A I decided the way I seen him.

Q I know, and you each told the other, did you?

A Yes, sir.

CASE #2110



Q Now, was it a light brown suit, or a dark brown suit?

A A dark brown suit.

Q How dark? Very dark? A No, sir.

Q What color cap was it? A I think it was--

Q I don't want you to think. I want you to tell me if you know, not to guess at it? A Well, I don't know the color of the hat.

Q Do you know it was a cap? A Yes, sir.

Q You can't tell whether it was a light colored cap, or dark color? A Kind of dark color.

Q Kind of dark? A To my imagination it was blue.

Q I suppose by "imagination" you mean recollection; is that it? A Yes, sir.

Q Your recollection is it was a dark blue cap?

A Yes, sir.

MR. MOORE: That is all.

RE DIRECT EXAMINATION BY MR. EDWARDS:

Q Philip, did you say that this man had on a dark brown suit and a dark cap because Fenn told you so? A No, sir.

MR. MOORE: Well, I object to that, if the court please.

MR. EDWARDS: That is the insinuation counsel is trying to inject into this case.

MR. MOORE: I am not. I am showing this was the result of a conference. The evidence is here, and

CASE #2110



This is an improper question, I submit to the Court.

MR. EDWARDS: He says it was not as a result of a conference. It was what he saw.

MR. MOORE: I understand that. The evidence is before the jury and the inference will be drawn from that.

THE COURT: The objection is overruled.

MR. MOORE: I take an exception.

Q When you saw this man run around the corner, going into Park Avenue, going south, what was there about him that made you think it was the same man who had been talking to the woman? A Well, I seen the man running around the corner, and as I went up to the corner he was gone, and as I come down 53rd street to go back to the store I seen the same woman laying in the gutter.

Q The same who? A The same woman the man was talking to.

Q When you saw the man talking to the woman, and you say it was the same man you saw the afternoon before, are you sure the defendant is that man? A Yes, sir.

MR. MOORE: I submit he has been all over that.

THE COURT: Objection overruled.

Q How often did you go to police headquarters?

A I think - I went there once, to identify him.

Q That was the only time? A Yes sir.

Q Was that in the evening, or morning? A In the evening, eight o'clock.

CASE #2110



Q And that was the time you saw Weinstein there, but did not see Fenn? A Yes, sir.

Q Did you see the messenger boy, Conway, there that day? A Yes, sir.

Q He was there with Weinstein and you? A Yes sir.

Q How often did you go down to the Coroner's office?

A I don't recollect.

Q Do you recollect-- you recollect going there for the hearing? A Yes, sir.

Q And how often did you come to this building, on subpoena from the District Attorney? A I don't know how many times.

Q You came down more than once? A Yes, sir.

Q You made a statement here to the District Attorney?

A Yes, sir.

MR. MOORE: I object to this, if the Court please.

MR. EDWARDS: Counsel wanted to get the number of times, and I am trying to fix it.

MR. MOORE: I submit this testimony, or no other witness's testimony, can be strengthened by the fact that he made a statement to the District Attorney or some other place.

THE COURT: You object to the question?

MR. MOORE: I do, your Honor.

THE COURT: The objection is sustained.

Q Can you tell us at all how often you came down to the

CASE #2110



*Detroit*  
 Detroit Attorney's office? A I came about five or six times down here.

Q And when you came here you saw one of the Assistants on the staff, didn't you? A Yes, sir.

Q Each time? A Yes, sir.

Q Were those other witnesses down here every time you came? A Yes, sir.

Q When was the last time, Philip?

MR. MOORE: I think, if the Court please, I will object to this. It is entirely immaterial.

THE COURT: You went somewhat into it, Mr. Moore, in your inquiry, the number of times the witness met and conferred with the others upon the subject matter of this investigation.

MR. MOORE: Well, if that is the purpose of it I withdraw the objection.

Q When was the last time, do you remember? A Last Friday.

Q That was the time you came to my office? A yes sir.

Q And all the other witnesses came there too, that same day? A Yes, sir.

Q Philip, I forgot to ask you how old you are?

A Seventeen.

Q Seventeen when? A September 21st, last.

Q Last September? A Yes, sir.

CASE #2110



Q So that when this happened you were just past sixteen?

A Yes, sir.

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J E R O M E C O N W A Y, called as a witness on behalf of the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live? A 116 West 102nd Street.

Q How old are you, Jerome? A Sixteen years old.

Q When were you sixteen? A The 26th of October.

Q Will you be sixteen this month? A I will be 17.

Q You will be 17 the 26th of this month? A Yes sir.

Q So that a year ago this month you were sixteen?

A Yes, sir.

Q Just past, on the 28th? A Yes, sir.

Q Who do you work for? A Postal Telegraph Cable Company.

Q And how long have you worked for them? A It will be two years next February.

Q And who did you work for before you worked for them?

A Western Union Telegraph Company.

Q How long did you work for the Western Union?

A Six months.

Q How old were you when you went to work for them?

A Fourteen years old.

Q So that you have been working as a messenger for one

CASE #2110



of the Companies for about two years and a half or three years?

A Yes, sir.

Q You are now sergeant of messengers, are you?

A Yes, sir.

Q And what office of the Cable Company are you with now? A 30 Church street, Hudson Terminal Building.

Q What office of the Company were you ~~xx~~ with a year ago this month? A 154 East 54th Street.

Q On the afternoon of the 20th of October, do you remember that afternoon? A Yes, sir.

Q What were you doing that afternoon? A I went over to Madison Avenue for a call, Walker-Gordon, 52nd Street and Madison Avenue.

Q That is the northeast corner? A Yes, sir.

Q When you left there, which way did you go back?

A I come down 52nd Street to Park Avenue.

Q That is, going east on 52nd street from Madison to Park? A And on the west side of Park Avenue; then at 53rd I crossed down.

Q You crossed Park Avenue? A And went down on the south side of 53rd Street.

Q You went east on the south side of 53rd Street from Park going towards Lexington? A Yes, sir.

Q As you came to that corner and started to go east on that street, did anything attract your attention? A Yes sir.

Q What? A A boy running after a man.

CASE #2110



Q And what direction were they going in? A They were going towards Park Avenue.

Q Coming right towards you? A Yes, sir, coming right towards me.

Q Did you see them both? A Yes, sir.

Q Well, where did they go? A Well, the boy stopped, and the man ran around on Park Avenue.

Q Which direction did he go on Park Avenue?  
A Towards 52nd Street.

Q Did you watch him? A Yes, sir.

Q Did you see what he did when he got to 52nd Street?  
A No, I didn't see him no more after he turned the corner.

Q What? A I didn't see him no more after he turned the corner.

Q Which corner did he turn? A 52nd street-- 53rd street, he turned.

Q 53rd street, down Park Avenue? A Yes, sir.

Q You didn't see him after he turned the corner, going down Park Avenue? A No, sir.

Q Then what did you do? A I walked down, to see what was the matter, and I seen a lady in the gutter. I didn't stop a minute, and I went around to Lexington Avenue, to see if I could surround him.

Q Did you walk, or run? A I ran around.

Q And did you see the man again? A No, sir, I didn't see him any more.

CASE #2110



Q Where was it that you saw this woman lying ? Here is people's exhibit No. 1 (indicating on diagram, people's exhibit No. 1); this is Park Avenue, going north; this is the arrow, going north, and here is 53rd Street, turning east?

A Yes, sir.

Q Now, as I understand it, you came across Park Avenue to this corner (indicating on diagram, people's exhibit No. 1)?

A Yes, sir.

Q And were going towards Lexington? A Yes, sir.

Q Can you tell us about where this woman was when you saw her, whether she was on the sidewalk, or in the street?

A She was in the street, in the middle of the gutter.

Q And about where, about how far from the corner?

A Oh, about seventy-five to a hundred feet from the corner.

Q And was that opposite any particular building that you know? A Well, there is two apartment houses.

Q On 53rd Street? A Yes, sir.

Q Which side, south or north? A There is one on the south side of 53rd and one on the north-- three on the north side.

Q Where was she with relation to the one on the south side? This is that big apartment on the east side of Park Avenue, running back on 52nd street and on 53rd street (indicating on diagram, people's exhibit No. 1)? A Yes, sir.

Q Now, I want to get an idea of where, between this

CASE #2110



point and this point, (indicating on diagram, people's exhibit No. 1) the woman was lying when you saw her? A Well, she was laying in the middle, here, that is all I know (indicating on diagram, people's exhibit No. 1).

Q Out in the street? A Yes, sir.

Q And you think about seventy-five to a hundred feet from the corner? A Yes, sir.

Q Was there much of a crowd there? A There was; there was quite a crowd there.

Q Did you go to the woman and look at her? A Yes sir, but I didn't stop long.

Q Did you notice anything about her condition?

A I just saw blood on the gutter there.

Q And then you ran around to Lexington Avenue?

A Yes, sir.

Q When you got to Lexington Avenue which way did you go?

A South down as far as 52nd street and Lexington avenue.

Q Then where did you go? A Then I didn't see him, and I went back to the office.

Q Had you ever seen either that man or woman before?

A No, never seen them before.

Q Have you ever seen the man since? A No, sir.

Q Anywhere? A No, sir, no place.

Q Do you see him here in the Court room? A There he is (indicating defendant).

CASE #2110



Q Which man do you mean? A Right there (indicating defendant)

Q Which end of the table is he sitting at? A Right there (indicating defendant).

Q Right next to the rail, on this side? A Right next to the rail.

Q Is this the first time you have seen him since you saw him running towards Park Avenue that day? A I identified him in police headquarters.

Q Did you see him any where else? A No, sir.

Q Did you see him in headquarters? A Yes sir.

Q When was that? A I think the 13th of September.

Q This last month? A Yes, sir, this last month.

Q In the morning, or night? A In the night time, nine o'clock.

MR. EDWARDS: That is all.

CROSS EXAMINATION BY MR. MOORE:

Q Why did you look around the court room so much before you pointed out the defendant? A Well, to see if I could identify him.

Q You knew where he was all the time, didn't you?

A No, I didn't know where he was.

Q Didn't you know he was on trial, and you were subpoenaed here as a witness? A I heard he was in court.

Q You knew that, didn't you? A Yes, sir.

CASE #2110



Q You knew he was sitting here at the defendant's table, didn't you? A No, I didn't know he was sitting there.

Q Where did you expect him to sit, in the jury box?

A Well, in the back some place.

Q You looked the jury over first. You didn't think he would be over there? A Well, they might have him there.

Q You knew where he was all the time, didn't you?

A No, sir.

Q You knew that was the man, and you were going to pick him out? A I didn't know he was there at first.

Q You have been in a court room before, haven't you?

A Not here, no, sir.

Q No, in a court room? A Yes, in the Children's court, but not here.

Q You know the defendant is inside the rail?

A (No answer)

Q Don't know where he is? A I didn't know where he would be.

Q You don't mean to tell us, do you, Jerome, that you didn't know all the time just where you could put your eye on this defendant when you were asked to point him out?

A I looked around.

Q You knew right where to put your eye on him, didn't you? A Well, when I seen him.

CASE #2110



Q Now, when you identified him at police headquarters you were with whom? A Nobody.

Q There were others went there with you? A No sir.

Q Weren't you together with Weinstein? A No; they were outside, in a separate room.

Q I don't mean in the very line-up, but you three young men were there together, were you not, before you went in to identify him? A Sure, we were all together.

Q And the three of you were outside and then taken in one at a time? A One at a time, yes, sir.

Q And were you the first, or the last, one to go in? A I think I was next to the last.

Q And you were the second one. Do you remember who went in first? A No, I don't remember who went in first.

Q Now, did you give a description of this man to the officers that you saw running away? A No, sir.

Q What? A Yes, that night, the night when I told them about it.

Q I mean at the time, on the 28th of October, at the time of the killing, did you give a description to the officers? A Yes, sir.

Q How did you say he was dressed? How do you now say he was dressed? A He had a kind of blue suit, or a brown suit, with a stripe in it, a white stripe.

Q There is a lot of difference between a blue suit and a brown suit. Which was it? A Well, a blue suit.

CASE #2110



Q Sure about that? A Yes, sir.

Q What kind of a hat or cap did he wear? A Just a cap he wore.

Q What color? A Gray cap.

Q Red? A Gray.

Q Gray? A Yes, sir.

Q You are sure about that, are you? A Yes, sir.

Q A blue suit and a gray cap? A Yes, sir.

Q It was not a brown suit and a blue cap, was it?

A No, sir.

Q Sure about that? A Yes, sir.

Q And he had a mustache? A Yes, sir, a mustache.

Q You said he had a black mustache, didn't you?

A Well, no, I didn't say he had a black mustache.

Q Didn't you? A No, sir.

Q Did you say what the color of his mustache was?

A Yes, sir.

Q What did you say? A A light brown.

Q Sure about that, boy? A Yes, sir.

Q Who did you make that report to, what officer?

A Officer Landvoe.

Q It was not the Captain, Phorr, Alfred Phorr?

A No.

Q You know him? A No, sir.

Q Didn't you talk with him? A No, sir, never saw him.

CASE #2110



Q And didn't you tell him at that time that he had a black suit and a gray cap on?

MR. EDWARDS: I submit that is not a fair question. The witness said he never saw the man.

MR. MOORE: The man he did tell, the officer, who ever it was.

A Yes, I told the officer that night.

Q That he had a blue suit and a gray cap? A Yes sir.

Q The man that you saw running away? A Yes sir.

Q How near the corner was it when you saw him running first, the corner of Park Avenue? A I was about fifty feet from the corner.

Q You were about fifty feet on Park Avenue, or fifty-third street? A 53rd street, from Park Avenue.

Q When you saw him running you had passed or turned the corner from Park Avenue into 53rd street? A Yes, sir.

Q And had gone eastwardly towards Lexington Avenue about fifty feet? A Yes, sir.

Q When you saw him running? A Yes, sir.

Q Then, you didn't get much of a look at him, did you?  
A Sure, when he turned the corner he looked back.

Q When was it you got the look at him, when he turned the corner and looked back? A Yes, sir.

Q Was that the first time you got a look at his face, when he turned the corner and looked back? A Yes, sir, that

CASE #2110



is the time when I got a good look at him.

Q When he turned around and looked back? A Yes sir.

Q You didn't get a good look at him as he was passing you, did you? A No, sir, I didn't.

Q Who was the man that was chasing him, as you say?

A A young boy about sixteen years old.

Q Do you know that boy? A No, I don't know the boy; never seen him before.

Q Never have seen him since? A No, sir.

Q You know young Fenn, don't you? A No, I don't know him. I know him now, but I didn't know him at that time.

Q Was that the boy that was chasing him? A That was the boy.

Q You say you don't know the boy? A I know the boy now, but I didn't know him then.

Q And the reason you know him now is because he told you he is the boy that was chasing him, isn't it?

A No, he didn't tell me.

Q Who did tell you? A I know that was the boy that chased him.

Q What? A I know that was the boy that chased him; I saw him.

Q When did you first know that he was the boy?

A When he was chasing him, like, I saw him.

Q That Fenn was the boy I am speaking of now?

CASE #2110



A Yes, Fenn.

Q When did you first know that that boy that was chasing him was Fenn? A I knew when he was chasing him, that is all.

Q You didn't know his name then? A No, I didn't know his name.

Q I say, when did you first become acquainted with him and know that he was Fenn? A At police headquarters. No, it was one morning when we went up to the District Attorney, Walter R. Deuel; that was the time I saw him.

Q That was the first time you knew he was the boy?

A Yes, that was the first time.

Q Did you recognize him then as the boy? A Yes, I recognized him.

Q Could you tell how he was dressed on this day when he was chasing him? A He had a brown suit.

Q Who did? A Fenn.

Q All right. What else? A And a cap.

Q You think a cap. I don't want that. Can you tell whether he did, or did not? A He had a cap on.

Q What color cap? A A blue cap, a kind of blue cap.

Q It was Fenn that had the brown suit and the blue cap on, was it? A No, Fenn had a blue cap and a brown suit.

~~Q~~ That is what I say; a blue cap and a brown suit?

A Yes, sir.

CASE #2110



Q That is, the man that was doing the chasing had that on? A Yes, sir.

Q And the man who was doing the running had a blue suit and a gray cap? A (No answer)

Q Now, you have talked the matter over with Fenn?  
A No, sir.

Q What? A No, sir.

Q Never a word passed between you? A Yes sir.

Q How many times have you been down with Fenn to the District Attorney to be interviewed in this matter? A Oh, about four times, I think.

Q And each time you were here Fenn was here also, was he not? A Yes, sir.

Q And each time Weinstein was here, was he not?  
A Yes, sir.

Q And the other man? A Yes, sir.

Q And you sat together in the ante room for some considerable time, did you not, upon each occasion? A Yes sir.

Q And you did not talk a word about this case or the description of the man? A No, not about that; we didn't talk about that.

Q Never a word? A No, sir.

Q You didn't say to the others what your recollection was as to how he was dressed? A No, didn't have no time.

Q Nor they to you? A No.

CASE #2110



Q Yet you knew you were there to be interviewed with reference to what you knew of this case, did you not?

A Yes, sir.

Q Now, when you came back from the line-up, you went back into the room where the other two men were waiting, did you not? A Yes, sir, but I didn't stay there long. I went right home.

Q That is where you went? A Yes, sir.

Q You all went out together? A Yes, sir.

Q So that you stayed there until the identification was made complete by all three of you, did you not? A Yes sir.

Q Before you went into the line-up were you in the detective bureau? A I was in a room there with the others; I don't know if it was the detective bureau.

Q Did you see this defendant while you were in that room? A (No answer)

Q Now, just think for a moment. Do you recall whether he was in that room, or not? A What do you mean, what defendant?

Q This man you have identified here, do you recall whether he was in the room where you were before you went to the line-up? A No, he was not in that room.

Q Do you say he was not, or you didn't see him?

A I didn't see him, only the time I identified him.

Q When you went into the detective room did you look

CASE #2110



around to see whether there was anybody there that you knew?

A Sure, I looked around .

Q And at least if you did see him you don't now recall it, do you? A The only time I seen him was when I identified him.

Q How many men were there in this line-up?

A From twelve to fifteen men.

Q Did any of them have a mustache aside from this defendant? A No, some had mustaches, some didn't.

Q Now, think about it and be sure? A Yes, some had mustaches.

Q How many? A I couldn't say.

Q Try and give me-- cast your mind back to a line-up which was only five or six weeks ago, and see if you can describe how many men had mustaches? A Well, I couldn't say that.

QQ Could you say that any outside of this defendant had them? A They had mustaches, some.

Q What? A Sure.

Q You say they had them, sure. Give me the number that you recall that had them there? A Well, I couldn't say how many had.

Q Any of them have a black mustache? A Sure, some had black.

Q How many had black ones? A Well, two or three; there was three at most.

CASE #2110



Q How many had brown ones? A I couldn't say how many had brown ones.

Q Have you any recollection at all of any one having a mustache outside of the defendant? A Sure, some had mustaches, but I couldn't say the number.

Q Have you got the way any other man was dressed in that line-up? A No.

Q Could you tell how the defendant was dressed upon the occasion of the line-up? A He had a kind of a blue suit on and one of those -- what kind of hats do you call them?

Q What kind of hats? A Well, the first hat there, but not that color (indicating brown soft hat)

Q Now, young man, didn't he have the same suit on then he has on now (indicating defendant)? A Yes, something like that suit.

Q Then, he didn't have a blue suit on at all, did he? A Well, I couldn't say.

Q And isn't this hat he had on, the same one he has here in court (indicating soft hat)? A Yes, that is the same one.

Q Does that look anything like this brown one? A I didn't say that color, but I said a hat shaped like that one.

Q Then, you were mistaken when you say he had a blue suit on when you identified him less than six weeks ago in the line-up? A Yes.

CASE #2110



Q And you had a good look at him? You didn't catch it as he was running around the corner? A When he turned.

MR. MOORE: That is all.

RE DIRECT EXAMINATION BY MR. EDWARDS:

Q When you first saw this man, on the 28th of October, he ran right towards you on the street, didn't he? A Yes.

Q Now, on this line-up, when you saw this defendant, last month, did any one point him out to you and tell you to identify him?

MR. MOORE: I object to that, if the court please.

THE COURT: Objection overruled. He may answer.

Q Did any one point him out to you and tell you who to pick out? A No, nobody told me.

MR. EDWARDS: That is all.

RE CROSS EXAMINATION BY MR. MOORE:

Q What position was he in the line-up when you identified him? A Straight.

Q I mean, as to first, second, third, the middle, or end man? A He was the third man from the end.

Q As you went in? A Yes, as I went in.

Q You are sure of that? A Yes, sir.

Q The third man from the end? A Yes, sir.

MR. MOORE: That is all.

BY THE FOREMAN OF THE JURY:

Q When you say that man had on a light cap, do you

CASE #2110



mean it was light like that one, or like this one, or very light, or just how? A A kind of dark hat, dark gray, a dark hat.

BY MR. MOORE:

Q Didn't you say before it was a light gray? A No.

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I S S A A C W E I N S T E I N, called as a witness on behalf of the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. EDWARDS

Q Speak so these gentlemen back here can all hear you, Mr. Weinstein? A Yes, sir.

Q Where do you live? A 225 East 53rd Street.

Q And between what Avenues is that? A Between Second and Third Avenues.

Q And what is your business? A Stationery and cigars.

Q And where do you have your business? A Between Lexington and Third Avenues.

Q On what street? A In 53rd street.

Q And what is the number of your place of business?

A 138.

Q So, your place of business is a block further west than the house you live in? that is, you live between Second and Third, and your business is between Third and Lexington?

A My business is corner of Lexington Avenue.

Q On the street? A On the corner, but my store is

CASE #2110



in the street.

Q Your entrance is on the street? A Yes.

Q Do you remember the 28th day of October, 1914, a year ago? A Yes, sir.

Q Where were you that afternoon? A I was in 52nd street.

Q Whereabouts in 52nd street? A Between Lexington and Park Avenues.

Q And when you left there where did you go?

A I went to the west side. I wanted to go to 12 West 52nd Street.

Q 12 West 52nd Street? A Yes, sir.

Q Were you on the street, walking? A I was walking on the street.

Q Between what Avenues were you? A Where I was walking?

Q Yes. A Between Lexington and Park.

Q And which Avenue were you walking towards? A What?

Q Were you going towards Park Avenue, or towards Lexington Avenue? A I was just in the center between Park and Lexington.

Q In which direction were you walking? A I was walking to the west side.

Q That is, towards Park Avenue? A Yes sir.

Q And on which side of the street? A On the north side.

CASE #2110



Q Now, did anything happen as you walked in that direction that attracted your attention? A Yes sir.

Q What? A I seen a man was running from Park Avenue to Lexington, on the other sidewalk from where I was walking.

Q On the south side? A On the south side.

Q And had you ever seen that man before? A I seen him the day before.

Q Do you see him here in this court room?

MR. MOORE: That I object to, if the Court please, no proper foundation laid for the evidence at this time.

THE COURT: The objection is overruled.

MR. MOORE: I take an exception.

A Yes, sir.

Q Where? A Right there (indicating)

Q Just tell us what man you mean when you point. It is hard to tell? A That man (indicating)

Q That is, the man against the rail, on the left end of the table? A Yes, sir.

Q Was anybody else running besides that man that you saw at that time? A Another man, which I don't know who he is; he run after him.

Q What did you do? A I was walking up the west side.

CASE #2110



Q What did you do after you saw this man running back?

A I didn't do nothing; I was walking; I seen that man running and another man after him, hollering to me I should hold him.

Q Where did you go after that? A I went to 53rd street, to Park Avenue, and then I went to 53rd street with this man, who was dressed as a chauffeur.

Q With the man you had seen in the street running besides this man you have identified here to-day? A Yes sir.

Q That is, he stopped running and went back with you? A Yes, sir.

Q How far did you go? A I went to Park Avenue, then to 53rd street.

Q Did you see anything in 53rd street? A Yes, sir, a crowd of people and a woman laying on the sidewalk, and she was dying.

Q At the time that you got there, she was where? A What is it, sir?

Q Where was she lying when you got there? A She was laying on the south side side walk.

Q On the sidewalk? A Yes, sir, in 53rd street.

Q You said you had seen this man that you saw running south on the side of 52nd street towards Lexington Avenue before. When had you seen him before? A In 53rd street.

Q When? A The day before.

Q About what time? A It was a little earlier than

CASE #2110



the next day; it was about half an hour earlier.

Q And whereabouts in 53rd Street did you see him?

A In the middle of the block, 123 or 115.

Q That would be the north side? A It was the north side, but I was on the south side at that time.

Q Can you give us an idea from this diagram where he was when you saw him (handing witness diagram, people's exhibit No. 1). This is 53rd Street, this is Park Avenue, this is the north side of 53rd Street, and this is Lexington Avenue, this is the south side of 53rd Street (indicating on diagram, people's exhibit No. 1). Where was this man when you saw him?

A The day before?

Q Yes. A He was in the middle of the block, on the north side.

Q About in the middle of the block? A Yes, sir.

Q What was he doing, if anything? A He acted funny.

MR. MOORE: I move to strike that out.

THE COURT: Strike it out.

BY THE COURT:

Q Where were you when you saw him? A I was delivering papers.

Q How close to him were you? A Oh, I was across the street, on the other sidewalk.

BY MR. EDWARDS:

Q On the other side of the street? A Yes sir.

CASE #2110



Q . What I wanted to get at was, what attracted your attention to him specially so you noticed him? A I noticed because there was a big crowd around him, and then I looked.

Q Did you hear him say anything that afternoon?

A No, I couldn't hear, because I done my business.

Q You were delivering papers on your route?

A Yes, sir.

Q When after this day that you saw this defendant running on 52nd Street did you next see him? A What is it, sir?

Q When did you next see this man after you saw him running on the street that day? A After on that day?

Q Yes. A I seen him at police headquarters.

MR. EDWARDS: That is all.

CROSS EXAMINATION BY MR. MOORE:

Q When you saw him running on 52nd Street between those Avenues, how was he dressed? A He was dressed in dark clothes, but I can't remember exactly.

Q Did he have a hat on, or a cap? A He had a cap.

Q What kind of cap? A I can't remember; a dark cap; but I can't remember exactly, because I didn't see him much.

Q You remember the man, but you could not describe his clothing? A What is it, sir?

Q You could not describe the clothing that he wore at

CASE #2110



all? A I don't know what color, but it was a dark color.

Q The man that was chasing him you afterwards learned was George Fenn, did you? A I don't know that man.

Q Have you seen the man since? A He was dressed as a chauffeur.

Q Have you seen him since? A No.

Q You know George Fenn, one of the witnesses here?  
A I don't know.

Q You have been to Court with him several times, this young boy, Fenn? A I don't know the names of the fellows.

Q This young boy that has been waiting out in the ante-room?  
A Only the milkman I know.

Q Was he the one that was chasing him? A No, if he would be the one I would know him, but I don't know his name, but I know he works in the dairy, Sheffield's.

Q The man that was chasing him was Terrano?  
A The man that was chasing him was dressed as a chauffeur, and I don't know that man.

Q You just said the man that was chasing him worked for Sheffield's? A He was dressed as a chauffeur.

Q You have not seen that man since, so far as you know?  
A No, sir.

Q Can you describe to the jury the man who was doing the chasing? A I don't think so. It was a young fellow.

Q That is all you could say about it? A That is all.

CASE #2110



Q You could describe the man that was running, but you could not describe the man that was chasing him? A No.

Q You saw them both, didn't you? A What is it, sir?

Q You saw them both? A I saw them both.

Q And you walked back with the man that was doing the chasing, didn't you? A He walked ahead.

Q You walked with him, didn't you? A Yes sir.

Q And yet you can't describe him in any detail or particular, can you? A If I would see him may be I would recognize him.

Q I am asking now if you can give a description of him? A He was a dark young fellow.

Q Couldn't tell how he was dressed? A As a chauffeur.

Q What color clothing did he have on? A Dark clothes, and he had these shoes -- long shoes, boots.

Q Did you report to the police officers a description of the man you saw running? A What?

Q Did you tell the police officers? A When?

Q At that same time, how this man who was running looked?  
A In police headquarters.

Q No, the day the woman was killed? A I did tell him.

Q You said he had a black mustache, didn't you?

A What?

Q You said he had a black mustache? A I didn't say that.

CASE #2110



Q Sure about that? A No, because I couldn't remember exactly what kind of mustache he had.

Q You could not remember then whether it was black, or brown, or sandy? A It was blonde, not dark. I never said black.

Q You now say you did not tell him that, because you could not remember what the color was; is that a fact, that you could not remember what the color was? A It was not dark, I know.

Q Is it a fact, as you said a moment ago, that you could not remember what the color was? A It was a blonde.

Q Is it a fact that you did not remember the color of the mustache? A Oh, I did remember. It was not black.

Q Did you mean to say a moment ago you did not tell him it was black because you could not remember the color?

A When did I say black?  
asked

Q I ~~ask~~ you if you did not tell the police officer it was black, and you said no, because you did not remember the color. Now, is that a fact? A I didn't say black.

Q I am asking you now is it a fact that you did not remember the color of his mustache at the time you saw him running by you? A Well, I will tell you, I didn't have time much to see the color, but I am sure it was not black.

Q You didn't have very much time to see the color of his mustache, did you? A Yes, sir.

Q Did you have much time? A No.

CASE #2110



Q And you did not get a very definite look at him, a good look, did you? A Well, I did look at him.

Q But you didn't have much time to look? A I did look that day when I seen him, the first day.

Q You didn't have time enough to look and determine definitely the color of his mustache, did you? A Well, but I said always it was not dark; it was blonde.

Q Did you get a good look at it, so you could tell, or didn't you? A I did.

Q Did you get a good look at it, so you could tell its color? A Certainly, I did.

Q Why did you say a moment ago that you did not get a good look at it? A You asked me if it was dark, or not. I said it was not dark.

Q I am asking you if you did not tell the officer it was black? A No, I didn't tell it was black.

Q Now, the next time you saw him was at police headquarters? A Yes, sir.

Q And that was in the line-up? A In the line-up.

Q How was he dressed that day? A He was dressed, I think, in a light suit, I think.

Q I don't want you to think? A I can't remember exactly. I think a light suit. I mean not a dark suit.

Q You mean a light gray suit? A A gray suit.

Q That is your recollection. That is only six weeks ago, isn't it? A Yes sir.

CASE #2110



Q What kind of cap or hat did he have on when you saw him in the line-up? A He had a cap.

Q What was the color of the cap? A Also gray, I think.

Q What? A A gray, I think.

Q He had a gray cap and a light gray suit of clothes when you saw him in the line-up? A Yes, sir.

Q Do you call that a light gray suit (indicating defendant)? A No, this is dark.

Q Do you call that a light gray suit? (Indicating defendant)? A That is not a light gray.

Q Look at him again, and I ask you now if that is not the suit of clothes he had on when you saw him in the line-up?

A Well, I can't remember that suit.

Q Instead of a light gray cap, didn't he have this hat on (indicating defendant's hat)? A I don't remember. I think this one.

Q That don't look much like a light gray cap, does it?

A I don't remember.

Q Can you remember the man that you saw running that you didn't get a very good look at a year ago better than you could one that you went into a line-up to pick out?

A Well, I could remember because he looked the same; that is all.

Q You could not tell now at all about how he was

CASE #2110



dressed when you picked him out, can you? When you picked him out in police headquarters you cannot now tell a single garment that he wore, can you? A Well, he looked the same man, that is all.

MR. MOORE: I move to strike that out, as not responsive.

THE COURT: Strike it out.

Q Can you tell a single garment that he wore? Can you? A What is it?

Q (Question repeated by stenographer)? A What is it?

Q Do you know a single article of clothing that he was wearing? A No, I can't tell that.

BY THE COURT:

Q How long have you been in this Country? A What is it, sir?

Q How long have you been in this country? A Twenty-four years.

Q In this City all that time? A What?

Q In New York all that time? A In New York all that time.

THE COURT: Is there something else, Mr. Moore?

MR. MOORE: That is all, your Honor.

CASE #2110



G E O R G E     H E N R Y     W R I G H T, called as witness on behalf of the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. EDWARDS:

Q     Where do you live?     A     240 West 149th Street.

Q     George, try and speak so these gentlemen back here can hear you.     Speak as loud as you can?     A     Yes sir.

Q     How old are you?     A     Sixteen.

Q     When were you sixteen?     A     Last November.

Q     So that you will be seventeen this next November?

A     Yes, sir.

Q     What was your mother's name, George?     A     Barbara Wright.

Q     And where were you and she living at the time of your mother's death?     A     118 East 53rd Street.

Q     That is between Lexington and Park Avenue, on the south side of 53rd Street, isn't it?     A     Yes, sir.

Q     I show you this diagram (handing witness people's exhibit No. 1).     Here is Lexington Avenue, this is north, this is Park Avenue, here is the south sidewalk (indicating on diagram, people's exhibit No. 1).     Now, there are four houses in there marked tenements and numbered 114, 161, 18 and 20?     A     Yes, sir.

Q     Were you living with your mother in the one that is marked 118?     A     Yes, sir.

CASE #2110



Q On what floor did you live? A Top floor.

Q Front, or rear? A Front.

Q How long had you been living there? A About two months.

Q That would make it that you went there some time in August, 1914? A Yes, sir.

Q Now, do you remember the 28th day of October, the afternoon your mother was killed? A Yes, sir.

Q Where were you that afternoon? A I was at school.

Q What time did you get home? A Some time around three o'clock.

Q And was your mother home when you got there?  
A No, sir.

Q How long did you wait before anything happened?  
A It was about an hour or so.

Q And then what occurred? A Well, the janitress rang the bell for me to come down stairs.

Q And you went down stairs, did you? A Yes, sir.

Q Did you go out on the street? A Yes, sir.

Q What did you see there? A Saw my mother lying there

Q Where was she at that time? A Right by the apartment out there. (indicating on diagram, people's exhibit No. 1)

Q Was she on the sidewalk, or on the street? A She

CASE #2110



was lying on the sidewalk.

Q What did you do, George, anything? A Well, I tried to speak to her.

Q Did you get any answer? A No, sir.

Q After that, she was taken away in an ambulance?

A Yes, sir.

Q Did you see your mother's body after that?

A The same night.

Q Where? A At the police station.

Q Did you attend the funeral after that? A Yes sir.

Q When was that? A I think it was on Saturday, the same week.

Q And you saw your mother buried? A Yes, sir.

Q Now, George, do you know this defendant? A Yes sir.

Q How long have you known him? A Over a year.

~~Q~~ Your mother has been dead now nearly a year. How long before her death? A About a year.

Q A year before that? A Yes, sir.

Q Where was it that you first met him? A At Mrs. Mark's.

Q And what was that? A That was a boarding house.

Q Did your mother work there? A Yes, sir.

Q Did the defendant work there? A Yes, sir.

Q And did you used to see the defendant and your mother there at Mark's? A Yes, sir.

CASE #2110



Q Where was that located, do you remember?

A 75th Street, corner of Broadway, I think.

Q Now, do you remember about when it was that your mother and the defendant left Mark's boarding house, stopped working there? A No, I don't remember that.

Q Do you remember how long it was before you took the apartment in 118 East 53rd Street? Just about; I don't mean exactly? A Around June or July.

Q One or two months before? A Yes, sir.

Q Where did you live yourself while your mother worked at Mark's? She lived there, too, didn't she? A Yes sir.

Q Used to sleep there? A Yes, sir.

Q Where did you live then? A 2894 Eighth Avenue.

Q With whom? A My aunt.

Q That is, Mrs. Mackey? A Mrs. Mackey, yes sir.

Q That is your mother's sister? A Yes sir.

Q Now, to come down for a minute to August, when your mother was in this apartment at 118 East 53rd Street, did you go to live with her then? A Yes, sir.

Q And who else roomed there, if anybody? A John Hendricks.

Q This defendant, you mean? A Yes, sir.

Q And how long did he continue to live there? Did he take his meals with you, by the way? A No, sir.

Q Just lodged? A Yes, sir.

CASE #2110



Q How long did he continue to lodge there in your apartment? A I think it was about a month.

Q Do you remember when he left there? That would be some time in September? A Around the first of September.

Q Early part of September? A Yes, sir.

Q Well, now, did anything happen during that month that you remember specially? A Well, he was arrested around that time.

Q That was after he left you, wasn't it? A Yes sir.

Q I mean while he was living with you and before he left, did anything happen that you remember specially?

A Well, he was drinking at the time.

Q What time? A Well, mostly all the time he was there.

Q Was there any--tell us the circumstances surrounding his leaving the house? A Well, he threatened my mother and I, that he would either kill one of us.

MR. MOORE: Now, I object to that and move to strike it out.

THE COURT: Strike it out.

Q If you heard him say anything to your mother or to you, tell me what he said. When you say he threatened, that is a conclusion of yours. Tell us what you heard?

A He said, "I will kill you or your son".

Q He said that to your mother? A Yes, sir.

CASE #2110



Q And what was being discussed at that time, George?

A About him leaving the house.

Q Who said anything about that? What was said about that? A Well, she wanted to put him out, and he wouldn't go out.

Q Did you hear what she said to him about it?

A Well, she said she would put him out of the house if he didn't stop his drinking.

Q And what did he say? A And he said he would either kill me or my mother before he would go out of the house.

Q Was that in the evening, or morning? A That was in the evening.

Q Did he stay there that night? A Yes, sir.

Q Tell us what occurred the next morning about his leaving the house? A Well, we got a policeman the next morning and got him out of the house.

Q And did he ever come back there to live? A No sir.

Q Did you ever see him after that day until after his arrest yourself? A Well, I saw him around the neighborhood, yes, sir.

Q How often? A Two or three times.

Q Two or three times between that time and when?

A And after his arrest.

Q Did you see him at the time of this arrest you are

CASE #2110



speaking of? A Yes, sir.

Q When was that, about? A That was around the first week in September.

Q And were you present when he was arrested?

A Yes, sir.

Q At the time of his arrest, were you there?

A Yes, sir.

Q Tell us what occurred at that time that you saw?

A Well, he was always following us around when we would go out, and he was annoying us.

MR. MORRE: I move to strike out "He was always following us around".

MR. EDWARDS: I consent to that.

THE COURT: Strike that out.

Q Then what happened on this particular day, the first week in September? A We went out for a walk.

BY THE COURT:

Q Who did? A My mother and I.

BY MR. EDWARDS:

Q Go on. What happened? A And he began following us, and he started in to run, and there was a bread line on 52nd Street there, and I ran around for the police, and by the time I got the policeman he ran around the corner, and that afternoon we were walking along Park Avenue, and he happened to be standing around 52nd Street.

CASE #2110



BY THE COURT:

Q "We" You mean by that your mother and yourself?

A Yes, sir; we was walking along there, and I got a policeman, and we had him arrested then.

BY MR. EDWARDS:

Q Were you present at the time that he was arrested?

A Yes, sir.

Q Did you hear any conversation between the defendant and the policeman and the defendant and your mother?

A No, none then.

Q Was that the time he was sent to the workhouse?

A Yes, sir.

Q Did you go to the station house with him? A Yes.

Q Were you present when he was searched on that occasion? A Yes, sir.

Q Who searched him? A The Judge.

Q The police officer, or the Judge? A I think it was the policeman.

Q Whereabouts? A In the court house -- in the police station.

Q Did you see anything that was found in his pocket at that time? A There was a knife on him.

Q Had you ever seen that knife before? A No, sir, not before.

Q Had you ever seen it when he was in your house?

A No, sir.

CASE #2110



Q I show you a knife and ask you if you have ever seen it before (handing knife to witness)? A That looks like the knife he had in the police station.

Q Louder? A That looks like the same knife that he had when he was taken to the police station.

MR. EDWARDS: I ask to have it marked for Identification.

THE COURT: Yes, mark it for identification.

(The same is marked peoples exhibit No. 5, for Identification, of this date)

Q Now, how long was it after that arrest that you next saw the defendant around the neighborhood? A I guess it was about two weeks after.

Q And that would bring us down to the latter part of September, wouldn't it? A Yes, sir.

Q Did you see him then after that? A No, sir.

Q About how often? A I saw him about two or three times.

Q And where would you see him? A Well, around the corner of Park Avenue, and some times he would be up in the next block.

Q Did he ever speak to you? A No.

Q Did you ever see him speak to your mother after that?

A No, sir.

Q Now, I forgot to ask you where you are working now?

A Seventh Street and Fifth Avenue.

CASE #2110



Q For whom? A J. L. Mott, Iron works.

Q And what do you do for them? A I work in the office.

Q Doing office work? A Yes, sir.

Q How long have you been with them? A Since February.

BY THE COURT:

Q What is your age? A Sixteen.

BY MR. EDWARDS:

Q You will be seventeen in November? A Yes sir.

Q Next month? A Yes, sir.

Q At the time of your mother's death, you told us you were going to school. What school? A Townsend-Harris Hall.

Q When did you leave school to go to work? A I left it right after that.

Q Then is when you first went to work? A Yes, I went to the country for a few months.

Q And then came back and went to work? A Yes sir.

Q Where do you live now? A 240 West 149th Street.

Q With whom? A Mrs. Mackey, my aunt.

MR. EDWARDS: I think that is all.

CROSS EXAMINATION BY MR. MOORE:

Q When was it you say was the last time that you saw the defendat and your mother together? A When he was arrested

Q On the street? A Yes, sir.

Q When was it? Some time in September, was it, last year? A Yes, sir.

CASE #2110



Q And about what part of September was it that you last saw your mother and the defendant together on the street?

A Around the first part-- the last of August.

Q Now, what I want to get at, George, is whether or not you saw him after the day he was arrested, as you described?

A Yes, I saw him after that.

Q You saw him after he got out? A Yes, sir.

Q And that would be about the middle of September, then? A Yes, sir.

Q Where did you see him then? A I saw him around the neighborhood.

Q He lived in the neighborhood, didn't he?

A Well, I saw him standing around there.

Q You know he did live in the neighborhood, don't you, after he left your mother's house? A I saw him standing there.

Q You know he did live in the neighborhood, do you not? A Yes, sir.

Q You saw him around the neighborhood after that for some time, did you? A Yes, sir.

Q But you did not see him and your mother together at all after he came out of the work house, about the middle of September? A No.

Q Either in the street or at the house? A No.

Q Now, do you know, George, he boarded or roomed with

CASE #2110



your mother and you for just about six weeks, didn't he?

A I thought it was about a month.

Q And he did, as a matter of fact, give your mother the money to buy the furniture for the apartment, didn't he?

A Not that I know of.

Q You don't know? A No.

Q Do you know whether or not he also gave her the money to pay the rent? A No, sir.

Q You don't know? A She gave him the money back. I know that.

Q Did she give him the money back, George? A She gave him his board money back, to get him out of the house.

Q He didn't board there; he just roomed there?

A I mean room.

Q Wasn't there more than that? Didn't he pay the rent, and give the money to furnish the house; isn't that the fact; and then didn't he, when she put him out because he was drunk, go back and say that he wanted his money back, and didn't she give him part of it; isn't that the fact? A I don't know.

Q Didn't you know anything about it, or hear anything about it? You did know she gave him some money back?

A I know she gave him his room money back.

Q Then, you heard some discussion about giving the money back? A Yes, sir.

CASE #2110



Q And you did hear some discussion about him drinking too much and she didn't want him to stay there? A Yes sir.

Q And you heard him say if she was going to put him out he should have his money back; you heard that, didn't you, George? A Well, I didn't know about that.

Q Not what it was about, but you did hear that discussion, that if she was going to put him out he wanted his money back? A Yes, sir.

Q Now, at the time you went and got the officer and had him arrested, as you say, for annoying your mother, he was then insisting upon having his money back, or else being permitted to board in the house? A No, he didn't say anything about that.

Q Didn't he say something about coming back to room in the house the time he met you and your mother that last time on the street, on the 6th of September? A I don't remember.

Q Don't you remember any of the talk that you had there that caused you to go and get an officer and have him arrested? A Yes, sir.

Q Now, give that talk, didn't he say that he wanted his money back or else he wanted to have the privilege of rooming in the house? A Well, he did get his money back.

MR. MORRE: I move to strike that out, if the Court please.

CASE #2110



THE COURT: Strike that out.

Q Did he say what I have asked you, that he either wanted his money back then, or else he wanted the right to room in the house? Do you recall that, George?

A No, sir.

Q Nothing at all about that? A No, sir.

Q Did he thereupon, on the 6th of September, say anything about coming back to the house to live? A The time he was arrested?

Q Yes. A No, he didn't say anything about that.

Q He did say something to your mother upon that occasion, didn't he? A Well, maybe he did.

Q It is not maybe. He did, didn't he, and you had him arrested, did you not? A Yes, sir.

Q And you had him arrested for something he was saying, didn't you? Didn't you, George? A Yes sir.

Q And that something that he was saying was walking along on the street insisting from your mother that he get his money back, wasn't it? A (No answer)

Q How is that, George? A (No answer)

Q (Question read by stenographer as follows:- "And that something that he was saying was walking along on the street insisting from your mother that he get his money back, wasn't it")? A (No answer).

Q That is right, isn't it, George? A I don't

CASE #2110



remember about that.

Q That is as strong as you can put it? A Yes sir.

Q Your mother, of course, after he came out of the workhouse, was upon the street going to and from her work, was she not? A Yes, sir.

Q So that they both lived in the same street, did they not? A Yes, sir.

Q And you were out with your mother very frequently, were you not, from the 6th of September up until the time that she was killed? A Yes, sir.

Q And you and your mother had on different occasions passed this defendant when there was no conversation between you, had you not? A Yes, sir.

Q He never from the time that he went to the workhouse, so far as you know, accosted your mother when you and he met with your mother, did he? A No, sir.

Q He was told, was he not, by the Magistrate, at the time he was committed to the workhouse, that he must not talk to her or speak to her on the street any more, was not he? A Yes, sir.

Q And you met him with your mother quite a number of times, did you not, between the 6th of September and the time your mother was killed? A Yes, sir.

Q And every time you met him he seemed to obey that instruction that he had gotten from the Court about not

CASE #2110



speaking to either you or your mother? A Yes, sir.

Q That is a fact, isn't it, George? A Yes, sir.

MR. MOORE: That is all.

RE DIRECT EXAMINATION BY MR. EDWARDS:

Q When was it you say your mother gave him back his board money, George? A That was before he got out.

Q Before he left the house at all? A Yes, sir.

Q It was not after he was arrested? A No.

Q But it was before he left, before you had the officer put him out of the house? A Yes, sir.

Q Was your mother working at the time you had that apartment in 118? A Yes, sir.

Q Do you know where she worked? A I think it was around 57th Street.

Q Was that when she worked for the Womens' University Club? A No, not at that time.

Q When was that? That was after she left Mark's, wasn't it? A After she left Mark's she worked at the Womens' University Club, and then she worked at the Calumet Club.

Q Was that the last place she worked? A Yes.

Q That is where she worked when she was killed?

A Yes, sir.

Q Now, what was it, if you can recollect, that the defendant said on the 6th of September, when you met him on the street that led you to get a police officer and have him

CASE #2110



arrested, do you recollect? A Well, he was chasing us around, following us.

Q Is that the only thing?

MR. MOORE: I object to that, if the Court please, "chasing us around", and move to strike it out, as a conclusion.

THE COURT: Well, it is not an answer to the question. I will lay it out for that reason.

Q Did he say anything on that day that led to his arrest? A No, sir, he didn't say anything.

Q Was he following you? Was that the only reason?

A Yes, sir.

Q I show you a picture, and ask you if you can tell us who that is a picture of? (Handing photograph to witness)

A My mother.

Q That is a picture of your mother? A Yes, sir.

Q Do you know how long that was taken before she was killed? A That was taken two or three years before.

MR. EDWARDS: I ask to have this marked for Identification.

MR. MOORE: I think the body has been sufficiently identified.

MR. EDWARDS: That is not the purpose of this photograph.

THE COURT: I will receive it for Identification.

CASE #2110



(Same marked people, s exhibit No. 6, for Identification, of this date)

Q Did you ever see that picture in that frame before, George? A No, not that one.

Q What? A We had a frame like that in the house.

Q Did you ever see that particular frame in that picture before your mother's death? A No, sir.

MR. EDWARDS: That is all.

RE CROSS EXAMINATION BY MR. MOORE:

Q I believe you said that at the time your mother died you lived at 118 East 53rd Street? A Yes, sir.

Q And, as a matter of fact, the defendant, after he left your place to room, went to 124 East 53rd Street?

MR. EDWARDS: 114 East 53rd.

Q 124, wasn't it? A It was about half way.

Q 124 and 126, that is where he went, wasn't it?

A 114, I think it was.

Q He went in the same block or same apartment house, did he not? A Yes, sir.

Q So that there was only one door intervening between the entrance to your home and the entrance to his, was there not? A Yes, sir.

MR. MOORE: That is all.

BY MR. EDWARDS:

Q Do you know how long he had been living there at

CASE #2110



the time your mother was killed? If you don't know, say so,  
but if you do know/tell us, how long he had been living next  
door but one? A I don,t know.

MR. EDWARDS: That is all.

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CASE #2110



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123

M A D E L I N E    G R E C K E , a witness called on behalf of  
the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are a married woman? A Yes, sir.

Q And live where? A 114 East Fifty-third street.

Q And how long have you lived there? A Well, this is  
the fourth year now.

Q Are you the caretaker of that building? A Yes, sir.

Q That is, you are the janitress, are you? A Yes, sir.

Q Do you know this defendant who sits here, John Hendricks?

A Yes, sir.

Q Did he to your knowledge live in that house, 114 East  
Fifty-third street? A He did, for a short time.

Q Do you remember the day when Mrs. Wright was killed?

A Yes, sir.

Q About how long before that was it that he came to live  
in that house? A Well, about a week or so previous to that day.

Q With whom did he live? A With a Miss Anderson.

Q And what floor was she on? A Second, rear.

Q Did she have any lodgers that you know of? A She did  
have some girls.

Q Any other men? A No men.

Q And did you see him on the day that Mrs. Wright was  
killed? A No, sir, I did not.

Q Did you see him the day before? A I saw him the day  
before, twice.

CASE #2110



Q That was in the hallway of the house? A Yes, sir.

Q Was that morning, or afternoon? A In the afternoon.

Q And did you see him again after the day Mrs. Wright was killed? A Never.

Q Did you ever see him from that day until you saw him here in court today? A Well, I saw him in the Tombs.

Q You saw him in the Tombs? A Yes, sir.

Q But you had not seen him after his arrest? A No, sir.

Q Did you ever see him come back to that house? A Never.

Q Do you know whether or not he removed his wearing apparel from the house? A I don't believe he has.

MR. MOORE: Objected to, and I move to strike it out.

THE COURT: Strike it out.

Q Do you know? A No.

Q But you never saw him around the house again? A Never.

Q Did you ever see him around the neighborhood again after that? A Never.

Q How long did Mrs. Anderson remain in the house after that, or Miss Anderson? A The middle of March, 1915.

Q And did she move away then? A Yes, sir.

Q Have you seen her since? A I saw her on Labor Day.

Q Do you know where she is now? A No, sir.

Q Do you know where she is working? A No, sir.

Q She has not been back to live there? A No, sir.

Q Where were you on the afternoon of the 28th of October?

A Where was I?

CASE #2110



Q Yes? A In my own rooms.

Q Did anything happen that attracted your attention out of doors that afternoon? A Yes, sir.

Q What was it? A The hallboys opposite acted excited like.

Q What did you do? A So I went on out to see what the trouble was.

Q And what did you find? A And I saw this woman in the middle of the road.

Q That is, out in the street? A Out in the street, yes.

Q What was she doing there? A She was laying flat on her back.

Q And what did you do? A I went over to her; I wanted to see what happened. I said, "What happened to you?" but she was not able to speak.

Q You did not get any answer? A No answer.

Q What did you do then? A After a while I cut her corset laces for her. Some gentleman in the crowd gave me his penknife to do it.

Q Did you notice anything about her? A I noticed a deep gash in one side of the neck.

Q Any blood? A Lots of blood, lots of it.

Q That is all you could see? A That is all.

Q Did you see her removed from the street? A Yes, sir.

Q And did you remain there with her until the ambulance came? A Yes, sir.

Q And saw her taken away? A Yes, sir.

CASE #2110



Q She lived, as I understand it, in 118; that is next door but one further east from the house you are the janitress of? A Yes, sir.

MR. EDWARDS: That is all.

CROSS EXAMINATION BY MR. MOORE:

Q Did you know that Mrs. Anderson put him out because he did not pay his room rent? A No, sir, she never put him out.

Q Do you know whether she did, or not? A No, sir.

Q Do you know whether or not she took the bedding off the bed when he insisted on staying there? A She told me she did not.

Q She told you she did not take take them off? A She told me she had not ordered him out, or anything.

Q Well, he did not pay the balance of this rent that he owed? A No, she didn't say anything like that to me.

Q Didn't say anything whether that finished it or not? A No, sir.

Q You don't know, as a matter of fact? A I know that his time was not up, from the way she spoke.

Q How long had he been there? A Only, I think, a week.

Q Just a week? A Yes, sir.

Q And she rented the rooms by the week, didn't she? A I couldn't say.

MR. MOORE: You don't know. That is all.

J A C O B W I N I T S K Y, Police Officer, attached to the 39th Precinct, was called as a witness on behalf of the People, being first duly sworn, testified as follows:

CASE #2110



## DIRECT EXAMINATION BY MR. EDWARDS:

Q Officer, <sup>to</sup> of what Precinct are you attached? A 39th Precinct.

Q And have been for how long? A Been there two years this December.

Q So that you were there last Fall, a year ago? A Yes.

Q Do you know this defendant? A I do, sir.

Q When did you first meet him? A I was on post on Lexington Avenue; my post was from Forty-seventh to Fifty-third.

Q And about when was it? A This was, to the best of my knowledge, in the early part of September, I guess.

Q What happened at that time? A I was on post, and this lady, Mrs. Barbara Wright, came up to me and says, "Officer,--"

Q Don't tell what she said. Was anyone with her at that time, or was she alone? A She was alone.

Q And she spoke to you? A Yes, sir.

Q And after she spoke to you, where did you go with her?

A I told her I would go with her --

Q Where did you go? A I went north on Lexington Avenue with her to Fifty-third street, where she lived.

Q And where did you go in Fifty-third street? A She lived right around the corner from Lexington Avenue; that is where I went with her.

BY THE COURT:

Q You accompanied her to her house, did you? A Yes, sir.

BY MR. EDWARDS:

CASE #2110



Q Did you see this defendant at any time? A I did, sir.

Q Where? A He noted my uniform, and I could just see him as he dodged through the streets and ran up through Fifty-third street.

Q What way did he go? A He went West on Fifty-third street.

Q How far? A He just run about one block, not quite a block.

Q And where did he turn? A There is a big apartment house on Park avenue which you can go through Fifty-second street and come out through the alley.

Q That is an alley behind the house? A Yes, sir, and I guess that is where he --

Q What did you see? A He disappeared on that block.

Q How long was it before the 28th of October? A Well, I believe it was early in September.

Q Do you recollect a time when the defendant was arrested and sent to the workhouse? A Yes, sir.

Q Was this before, or after, that? A He was sent to the Workhouse before.

Q Before this time you are speaking of, or after? A Do you mean was he sent to the Workhouse before --

Q I mean this day you are telling us about, when you saw him, when Mrs. Wright spoke to you and you saw the defendant in Fifty-third street, was that the day before he was arrested and sent to the Workhouse, or afterwards? A That was before he was arrested.

CASE #2110



Q Now, you didn't have any conversation with the defendant at that time?

MR. MOORE: It was the 6th he was arrested?

MR. EDWARDS: Yes.

MR. MOORE: May that be conceded on the record?

MR. EDWARDS: Yes, that is the date.

Q And you didn't see the defendant to speak to at that time? A No, sir, I did not.

Q After your talk with Mrs. Wright, did you return to your post? A No, I stood with Mrs. Wright, talking, and I said --

Q You talked to her for awhile, did you? A Yes, sir.

Q And after that where did you go -- back on post? A I went back on post.

Q What time in the morning was this? A This must have been about 11 A. M. in the morning.

Q And how long did your tour of duty continue? A From 8 A. M. to 4 P. M.

Q And before your tour of duty ended did you see Mrs. Wright again? A I did, yes, sir, in the afternoon.

Q About what time? A That must have been about three o'clock.

Q And did she have a talk with you then? A She did, sir.

Q And as a result of that talk where did you go? A I went up with her again on Lexington avenue, to look for her.

Q Did you see the defendant? A The second time I didn't

CASE #2110



see him at all.

Q That was the last time that Mrs. Wright spoke to you?

A Yes, sir.

Q Do you recall where she lived at that time? A She lived at 118 East Fifty-third street.

MR. EDWARDS: That is all.

MR. MOORE: That is all, officer.

MR. EDWARDS: If-your Honor please, I am informed that the witness I meant to call next was here this morning and has gone until two o'clock. He thought I would not need him. Would Your Honor take an adjournment now?

THE COURT: Yes. Gentlemen of the Jury, you won't discuss the case, or form or express an opinion on it, but keep your minds open and free until the case is sent to you. You will be in your places at two o'clock.

(The Court then accordingly took a recess until 3 o'clock P. M.)

AFTER RECESS.

EDWARD W. WIESSNER, Police Officer, attached to the 29th Precinct, was called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Officer Wiessner, you are an officer of the Municipal Police Force, are you not? A Yes, sir.

Q And have been for how long? A For about twenty-three

CASE #2110



months.

Q And you are assigned to what Precinct? A Twenty-ninth Precinct.

Q Were you assigned to that Precinct in August, September and October, 1914? A Yes, sir.

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

Q When did you first see him? A I saw him on September 6th, 1914.

Q And under what circumstances? A He was called to my attention by a lady whom I afterwards found to be Mrs. Barbara Wright.

Q Was anybody else with her at the time? A Yes, sir.

Q Who? A A boy whom I afterwards found out to be her son.

Q George Wright? A Yes, sir.

Q The witness who has testified here this morning? A I think so.

Q And where was it that you saw him? A It was at 58th street and Park avenue.

Q And did you have any talk with him in the presence of Mrs. Wright? A (No answer).

BY THE COURT:

Q Fifty-eighth street and Park avenue? A I am not positive about Fifty-eighth. Either Fifth-eighth or Fifty-seventh street; I don't remember just what corner it was on.

BY MR. EDWARDS:

Q It was either Fifty-seventh or Fifth-eighth and Park

CASE #2110



avenue? A Yes, sir.

Q And did you have any talk with him there in the presence of Mrs. Wright? A Mrs. Wright had accused him --

Q Not what she said to you when he was not there. I want any conversation had when he was present and could hear it; nothing else? A With Mrs. Wright, or with the defendant?

Q With either him or with Mrs. Wright in his presence?

A I asked him had he threatened Mrs. Wright in any way, and he said no, so Mrs. Wright informed me that --

MR. MOORE: I object to that.

Q Not what she informed you. If she said anything then and there in his presence, you can tell me. A She said this in his presence.

Q What did she say in his presence? A That he had a knife on him.

Q What did you do? A And I immediately searched the defendant, and found a knife on him.

Q I show you People's Exhibit No. 5 for identification, and ask you if you have ever seen it before (handing knife to witness)? A That is the knife I found on him.

MR. MOORE: I think this should not be exhibited to the jury, if your Honor please. The knife is not in evidence and I thought it should not be exhibited in the presence of the jury until it is.

THE COURT: Yes.

Q Where did you find it, officer? A I found it in one of

CASE #2110



his back pockets.

Q Was anything further said at any time by you to the defendant at the time that you are just describing that you saw him? A I then placed him under arrest.

Q Where did you take him? A I took him to the Fifty-first street Police Station.

Q Have you told us all the conversation that you now recollect that took place with him there on the street? A Well, on the way to the station house, the defendant made some remark in reference to he had given Mrs. Wright some money and she had not given it to him back.

Q Was she there at the time? A Yes, sir.

Q Did she make any reply to that? A She said nothing about it.

Q Was anything said by you to him about his knowing Mrs. Wright when you first saw him? A Not that I remember, no.

Q You say you took him to the station house. Did you afterwards arraign him before a Magistrate? A Yes, sir.

Q And was there a trial had there in your presence? A Yes.

Q And was the defendant sentenced after that trial? A He first was arraigned, and then the case was held over for a few days. I had charged him with carrying a concealed weapon, and the Magistrate had changed it to disorderly conduct, and then he sentenced the defendant to ten days in the Workhouse.

Q And that was the last you saw of him at that time? A Yes.

Q When did you next see him? A The next time I saw him

CASE #2110



was when I identified him in the Tombs, about three or four days ago.

MR. EDWARDS: I offer the knife in evidence.

MR. MOORE: Objected to as incompetent, immaterial and no foundation having been laid for its reception.

THE COURT: Excluded.

MR. EDWARDS: That is all.

CROSS EXAMINATION BY MR. MOORE:

Q On the way to the station house that day, the defendant said something about having given her some money, didn't he?

A Yes, sir.

Q And she claimed she had given it back to him, didn't she?

A Not to me.

Q But what did she say about giving it back, anything?

A She said nothing.

Q He said he had given her money to furnish the flat with, didn't he? A Yes, sir.

Q And that as soon as he got the flat furnished she kicked him out? A Yes, sir.

Q And that he had also paid the month's rent for the flat, too; did he say anything about that? A No, sir.

Q And he said if she was going to put him out, he wanted his money back, didn't he? A No, sir.

Q Didn't he say something about he ought to have his money back if he could not have the privilege of living in the flat?

A No, sir.

CASE #2110



Q But he did say he had given her money to furnish the flat with? A Yes, sir.

Q Were you present when he was sentenced to ten days in the Workhouse? A Yes, sir.

Q He had no lawyer? A No, sir.

Q And the Judge at that time charged him with disorderly conduct, for annoying this woman, and sent him to the Workhouse, didn't he? A Yes, sir.

Q And that is all that you knew about the annoyance, so far as you heard there in the Magistrates' Court at the time that you arrested him, that he was complaining about not getting his money back, isn't it? A Yes, sir.

MR. MOORE: That is all.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q Do I understand you to say that is all you knew about the annoyance, officer? Of course, you had a talk with Mrs. Wright before you arrested him, didn't you?

MR. MOORE: Now, I ask whether that was in the presence of the defendant, or in the Magistrates' Court. You were present on both occasions?

THE WITNESS: Yes, sir.

MR. MOORE: At the time of the arrest and at the time of the trial?

THE WITNESS: Yes, sir.

Q Was anything said at the trial about the character of the annoyance that he had subjected the woman to? A Not that I

CASE #2110



remember.

Q Did she testify? A She did.

Q Did you hear her testimony? A Yes, sir.

Q Did you hear what she said about that? A I don't remember what she said, though.

Q You don't remember? A No, sir.

MR. EDWARDS: That is all.

RE-CROSS EXAMINATION BY MR. MOORE:

Q Do you remember, officer, that after he had been sentenced to ten days he said to the defendant when he came out he must leave this woman and the boy alone, must not bother them any more?

A Yes, sir.

Q He admonished him along those lines, didn't he? A Yes.

A L E X A N D E R W A G N E R , was called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Mr. Wagner, where do you reside? A 42 East Seventh street.

Q And where is your place of business, or what is your business? A Restaurant.

Q How many restaurants do you operate? A Only one.

Q Where is that? A At 321 Bowery.

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

Q Did he ever work for you? A Yes, sir.

CASE #2110



Q When did he first work for you? A On October 13th, 1913, until December 13th, 1913, according to my books.

Q And what work did he do for you then? A As a pantry man on the floor.

Q A pantryman in your restaurant? A yes, sir.

Q What name did he work for you under? A Under the name of John Hendricks.

Q After he left you on December -- in December, 1913, when did he next come back to you? A On January 18th -- November 3rd, 1914, he started, and he worked on and off until January 18th, 1915.

Q That is, he came back on November 3rd, 1914? A He came back on November 3rd, 1914.

Q Between the time he left you, in December, 1913, until November 3rd, 1914, when he came back, did you see him at all? A I did not.

Q When he came back, in November, 1914, what name did he come back under? A Under the name of Smith, he gave me.

Q What first name did he give you? A John Smith, or something like that.

Q The last name was Smith? A Yes, sir.

Q Did you have any conversation with him about that change of name? A I simply asked him, and he said that his his name, Smith, but I know he worked the year previous under a different name.

BY THE COURT:

CASE #2110



Q Did you take that up with him? Did you speak to him about his having a different name when he worked for you in 1913? A I did not, your Honor; I simply asked him, and he told me he changed his name. I simply asked him whether he changed his name, and he said, yes, his name was Smith.

Q Will Smith? A No, John Smith.

BY MR. EDWARDS:

Q This man who sits here now, this defendant, is he the same man who worked for you under both those names? A Both those names.

MR. EDWARDS: That is all.

CROSS-EXAMINATION BY MR. MOORE:

Q It was Peter Smith, wasn't it -- Peter, instead of John? A Peter Smith?

Q The last time didn't he work for you under the name of Peter Smith? A I got him under the name of Smith.

Q Have you got his first name? A The first name I haven't got.

Q Have you just got him in your books under the name of Smith? A Just under the name of Smith, yes, sir.

Q You didn't talk to him about his name being Smith until after he had worked for you two or three days? A I asked him right away when he came to work whether he did not work for me under a different name.

Q I say, right away. Wasn't that two or three days afterwards before you recognized him? A No.

CASE #2110



Q When he worked for you that time before as John Hendricks, you discharged him, did you not, because he did not report for duty properly? A I don't know whether I discharged him; I don't remember that, because he was a drinking man.

Q Have you any way of refreshing your recollection when he worked for you in 1913, and how he happened to quit?

A 1913?

Q Yes, he worked for you until December, 1913, didn't he? A Yes, from October 13th until December 13th, 1913.

Q Do you recall why it was that he got through in 1913? A I couldn't say. He was getting drunk once in a while, and I suppose he got drunk and I put someone else in his place.

Q Now, isn't that the fact, that he did get drunk, as you say, and did not report for duty, and you put another man in his place?

A That may be.

Q Do you recall that to be the fact now? A I wouldn't say, because he occasionally got drunk.

Q Is that your best recollection now? Is that the way he got through in 1913? A Yes, sir.

Q Now, see if I can refresh your recollection a little. Doesn't he, when he comes back the 1st of November, 1914, work for you under the name of Smith, be it Peter or John, and after he had worked for you a day or two, didn't you ask him if he was not the same John Hendricks that worked for you in 1913?

A I asked him that question, to my recollection, the first

CASE #2110



day he came in there.

Q And then didn't you say to him, "Why have you changed your name?" and didn't he say to you, "Because you fired me before and I was afraid you wouldn't take me back."? A I don't remember that.

Q Think of it, because it is very important to this defendant. A I can't recollect him telling me that.

Q I want you to charge your memory for a moment and see if you now recall whether he did, or did not, say that when he came back to work for you? A I can't recollect that.

Q Whether he did, or did not? A No.

Q But at any event, he worked for you from the 3rd of November, 1914, in your restaurant, until some time in January, 1915, did he not? A Yes, the 18th of January, 1915; he started November 3rd and worked until January 18th.

Q Do you know anything about his working in places since that in New York City? A Since that? He told me after he used to come in to eat in my place and he told me he is working somewhere in the candy business.

Q After he left you, or after he quit your employ, he still frequented your place off and on for meals, did he not? A Yes, sir.

Q And he continued to frequent your place off and on for meals all this Summer past? A No, a couple of weeks after he left my employ.

Q After a couple of weeks he was there almost steadily

CASE #2110



h19

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for his meals, wasn't he? A I wouldn't say steadily. A couple of weeks.

Q And after the two weeks he came occasionally for a meal, did he not? A Yes, sir.

Q So that you saw him at different times during the whole of the Spring and Summer of 1915, did you not? A No, I couldn't say the whole of the Summer. Maybe for a month or so I might have seen him in my place. I don't remember exactly the time, gentlemen.

Q But didn't you see him in your place to eat after a month, that is, in March or April of this year? A No.

Q Not that you recall? A No.

Q The last was about a month after he got through?  
A Yes, sir.

Q That would be about the last of February, or the 1st of March? A Well, January 18th -- about the end of February; I can't exactly remember the dates.

Q When you asked him if he did not work for you before under the name of John Hendricks, he stated to you that was the name he had worked for you under? A Yes, sir.

Q No concealment about that at all? A No.

MR. MOORE: That is all.

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A B R A H A M J A C O B S O N , was called as a witness  
on behalf of the People, being first duly sworn, and  
testified as follows:

CASE #2110



## DIRECT EXAMINATION BY MR. EDWARDS:

Q Mr. Jacobson, try to talk so these gentlemen in this end of the jury box can hear everything you say. Where do you live? A 451 West Forty-third street.

Q And where is your place of business? A 537 Seventh avenue.

Q And what is your business? A Restaurant.

Q Do you know this defendant? A yes, sir, I do.

Q When did you first meet him? A In 1913.

Q About what time of the year? A In May.

Q Did he work for you then? A Yes, sir.

Q In what position? A As a dishwasher, kitchen man.

Q And for how long did he work for you there? A About three or four months.

Q Under what name? A Hendricks I used to call him.

Q What? A Hendricks I used to call him.

Q After he left you then, when did he come back and work again for you? A In 1914, last year.

Q What month? A It must have been about August.

Q And under what name did he come to work then? A The same name I used to call him.

Q Hendricks? A Yes, sir.

Q And what position did he have then? A I put him on first as a night cook, in 626 Eighth avenue.

Q How long did he remain at work for you as night cook?  
A About two weeks.

CASE #2110



Q And then what did he do? Did he leave again? A He said his girl don't want him to work nights.

Q After that did he work for you any more? A After a couple of weeks I put him on half time, as a sub.

Q On half time? A Yes, sir.

Q In what position? A In the front, as a waiter, and cleaning up.

Q And how long did he continue to work for you? A Not long. I can't recall exactly how long.

Q Do you remember what the last day he worked for you was? A The last day I saw him was the 28th of October.

Q And what time on that day did you see him? A About 2 o'clock, between one and two.

Q And what talk did you have with him then? A Well, I didn't spoke with him much. I gave him half a dollar.

Q What was that for? A I guess it was coming to him for work, and he was supposed to come back to work at seven o'clock.

MR. MOORE: I object to that and move to strike it out.

THE COURT: Strike it out.

Q What was said about his coming back to work, if anything? A He was supposed to come back.

Q What was said about his coming back to work at all when you paid him the fifty cents on the 28th at 2 o'clock?  
A That he needed half a dollar.

CASE #2110



Q And what was said about his coming back to work? A  
He is coming back at night, at seven o'clock.

BY THE COURT:

Q Did he say he was coming back? A Yes, he did say it.

BY MR. EDWARDS:

Q Did he come back? A No, he didn't come.

Q How long after that was it when you next saw him? A  
The day I called the officer in to arrest him.

Q When was that? A It was about September 15th.

Q That is, last month? A Yes, sir.

Q And where did you see him that day? A At 536 Seventh  
avenue, corner of Thirty-ninth street.

Q About what time of day was it? A It was about five  
minutes after eleven, five or ten minutes after eleven.

Q What was he doing in your place? A I seen him passing  
by and I called him in and treated him with a cup of coffee,  
and I asked him where he was working. He said he was working  
in Rockaway, at dishes, and then when I saw the officer on the  
beat I called him in.

MR. MOORE: I object to that.

Q An officer came in? A Yes, sir.

Q And then did he place him under arrest? A Yes, sir.

Q Now, before that day, had any officers been in there  
and talked to you? Just "yes" or "no". A Yes.

MR. EDWARDS: That is all.

CROSS EXAMINATION BY MR. MOORE:

CASE #2110



Q You had two places at this time, didn't you? A Yes.

Q Where were the -- you told us of only one. Where were the two places? A I had 626 Eighth avenue.

Q 626 Eighth avenue? A Yes, sir.

Q And that is where with reference to Fifty-third street?

A Fifty-third?

Q Yes, that is how far from Fifty-third street? A That is between Fortieth and Forty-first streets.

Q And you had that place, and where was the other one?

A The other one is 536 Seventh avenue, corner of Thirty-ninth street.

Q And this man worked for you in both places, didn't he? A Yes, sir.

Q And he worked for you in both places in the month of October, 1914? A Yes, sir.

Q He worked in the one place from seven in the morning until noon, didn't he? A Yes.

Q And then in the other place from seven at night until morning? A Until twelve.

Q With the afternoon off? A Yes.

Q Now, on this day when he did his last work for you, which you think was the 28th, you gave him fifty cents, didn't you? A Yes, sir.

Q And that settled up with him? A Yes, sir.

Q That was all that you did owe him, wasn't it, up to that minute? A I guess so.

CASE #2110



Q Can't you tell? Haven't you the books or some way of keeping track of this thing? A No, not exactly.

Q Your recollection is that that paid him in full until that minute? A I wouldn't say so.

Q Is that your best recollection? A That is the best.

Q Now, you say you understood he was coming back at seven to go to work on the night tour? A Yes, sir.

Q But he had said something, hadn't he, about not wanting to work nights, before this? A Oh, that was half a night, from seven until twelve.

Q From seven until two-thirty? A No, from seven until twelve.

Q I thought he worked from seven until two-thirty?  
A Seven to twelve.

Q He had said something to you before about not wanting to work nights, hadn't he? A That was the time before.

Q Earlier in August? A That was the time he was working as night cook the whole night.

Q And he then objected to working nights? A Yes.

Q And he wanted a day job? A Yes, sir.

Q And you told him you could not give him one; isn't that the fact? A We didn't have any open.

Q So he paid off for about two weeks, rather than take the night job; that is a fact, isn't it? A I don't know.

Q It is about two weeks that he did not work for you, wasn't it? A What?

CASE #2110



Q I say, after he quit this night job it was about two weeks before he worked you any more, wasn't it? A I can't recollect exactly.

Q Well, about that? A I don't want to say anything what I can't recollect; I don't want to say no lie.

Q You said, I think, on your direct, that it was about two weeks; I don't want it to the minute, whether it was a day over or a day less, but isn't it your recollection that there was about two weeks after he quit the all-night job before he worked for you any more? A Perhaps two or three weeks.

Q And then you gave him a job, off and on, day work? A Yes, if someone went off on a drunk.

Q And afterwards you shifted him to a regular job, working in the one place from seven in the morning until twelve at noon and the other place from seven at night until twelve at midnight? A That was not a regular job.

Q What was that? A That was when somebody was off, or one of the fellows was drunk, I put him on.

Q Then, he never had, after he quit the night job, any regular job with you? A No.

Q But he did work in the one place. Some days he would report there and you would give him a job possibly from seven in the morning until twelve at noon? A Yes, sir.

Q And then if he would report at the other place at seven at night, you might give him a job until midnight? A Yes, sir.

CASE #2110



Q And on this day that you saw him about two o'clock, he asked for what was coming to him, didn't he? A I suppose so.

Q You know so, don't you? A He asked for half a dollar.

Q Didn't he ask for what was coming to him? A I suppose it was coming to him.

Q That was all that was coming to him, wasn't it? A—I guess so.

Q And don't you recall, when he came there at two o'clock, he asked for all that was coming to him? A I can't recall.

Q Can't say one way or the other? A No.

Q At any rate, he did not come back until you saw him on the 15th of September? A Yes, sir.

Q And then he came back to your place of business? A Yes.

Q Where he had worked before under the name of John Hendricks? A Yes, sir.

Q And it was then that he was arrested? A Yes, sir.

Q You knew him, of course, when he came back on the 15th of September, this year? A Yes, sir.

Q And he knew you? A Yes, sir.

Q And when the officer arrested him, didn't he tell you, you and the officer, he did not even know the woman was dead? A He didn't told me.

Q Did you hear him say anything at all about it? A No, when we went to the Thirty-seventh Street Police Station I told to the officers --

Q In his presence? A What?

CASE #2110



Q I don't want anything you told when he was not around.

A He was with us.

Q He was with you when you went there? A Yes, sir.

Q Didn't he there say he did not know she was dead? A I did not hear that.

Q Didn't he say to the officers that he cared a great deal for the woman? A I didn't hear anything of the kind.

Q But, in any event, he came right back into the neighborhood where he worked for you on the 28th or when, as you say, he got his pay? A Yes, sir.

MR. MOORE: That is all.

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G E O R G E    T .   V A L E N T I N E , Police Officer,  
attached to the Thirty-ninth Precinct, was called as a  
witness on behalf of the People, being first duly sworn,  
testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Officer, you are an officer of the Municipal Police Force? A Yes, sir.

Q And assigned to the Twenty-ninth Precinct? A Thirty-ninth now.

Q But you were in the Twenty-ninth a year ago? A Yes.

Q Did you ever see this defendant when you were in the Twenty-ninth Precinct? A I did.

Q Where? A Well, I should think it was about the 22nd or 21st of October, 1914.

CASE #2110



Q And what were the circumstances under which you came to see him then? A Well, a janitor in premises either 116 East Fifty-third street, or 126, somewhere around those premises.

Q She said something to you, did she? A Yes.

Q And what did you do? A I left my post and went in premises 118 East Fifty-third street, on the complaint of --

Q Don't tell me what anyone said to you. Who did you see there? A I saw a man known to me as John Hendricks.

Q Is that this defendant? A Yes, sir.

Q And anyone else did you see? A Barbara Wright.

Q Did you have -- what did you do? A I put Hendricks out of the hallway.

Q And did you have any conversation with Mrs. Wright and Hendricks there? A Yes, sir.

Q What was that? A Mrs. Wright complained about this man coming around annoying her and bothering her house, and I warned him to stay away from the neighborhood, and chased him out of the hall, put him out of the hallway.

Q And is that all you had to do at that time? A That is all.

Q Did you ever see him again until after his arrest? A No.

Q And that you think was the 21st or 22nd of October? A Well, it was about a week prior to the murder, I should think.

Q A week prior to Barbara Wright's death? A Yes, sir.

MR. EDWARDS: That is all.

CROSS EXAMINATION BY MR. MOORE:

CASE #2110



Q Now, as a matter of fact, wasn't it in September when this happened in the hallway? A No.

Q How do you know? A Well, that is as near as my judgment goes.

Q All you now say is a matter of recollection? A Because in September I was working late tours, I believe.

Q I don't want believing. You know this man is on trial for his life. A Well, that is about the nearest I could say.

Q Did you ever go there more than once to put him out?  
A That is all.

Q Sure of that? A That is all.

Q And you think it was in October? A In October some time.

Q You wouldn't be certain even at that, would you? A Yes, pretty certain.

MR. MOORE: Pretty certain. That is all.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q Do you remember the day when Barbara Wright's body was brought into the Twenty-ninth Precinct? A Yes, sir, I remember it.

Q Do you remember the occasion? A I came in the station house; I think I was on reserve; I came in that night and saw it lying there.

Q And this occasion when you speak of seeing him in the hallway and putting him out, your recollection is now it was about a week before that? A About that, I believe, yes, sir.

MR. EDWARDS: That is all.

CASE #2110



A D A M D O E R I N G , Police Officer, attached to the 23rd Precinct, was called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Officer Doering, you are an officer of the Municipal Police Force? A I am.

Q And assigned to the 23rd Precinct? A Yes, sir.

Q When did you first see this defendant? A On the 15th day of September.

Q And where was he when you saw him? A Seated in a restaurant at 536 Seventh avenue.

Q In what year was this? A 1915.

Q Last month? A Yes, sir.

Q What time of day was it? A About 11:45.

*start*  
Q And did you go into the restaurant? A I was called in the restaurant by the proprietor.

Q And you went in? A Yes, sir.

Q And placed the defendant under arrest? A I did.

Q And took him where? A Took him to the 23rd Precinct, West Thirty-seventh street.

BY THE COURT:

Q Was that Jacobson's place? A Yes, sir.

BY MR. EDWARDS:

Q And then you notified the Detective Bureau? A Yes, sir.

Q Headquarters? A Homicide Bureau at Police Headquarters?

Q Did you have any talk with the defendant at that time?

CASE #2110



A Not in the restaurant. At the station house.

Q And whattalk did you have with him there? A I asked him his name. He said his name was John Hendricks.

Q Anything else? A I said, "Did you ever go under any other name?" He said, "Yes, I went under the name of Smith." "Any other name?", he said, "No, sir." I said, "Did you ever have any trouble with a woman uptown in New York?" He said, "I did. She had me sent away for disorderly conduct, sentenced to ten days." "Did you have any trouble with her after that?" He said, "No, sir."

Q And that was all the conversation you had with him?

A That is the only conversation I had, yes, sir.

Q Then you turned him over to the Homicide Bureau? A Yes.

MR. EDWARDS: That is all.

CROSS EXAMINATION BY MR. MOORE:

Q Didn't you tell him that that woman had been murdered?

A No, sir.

Q Didn't say anything to him about that? A No, sir.

Q Did you help afterwards to make a search of his rooms?

A No, sir.

MR. MOORE: That is all.

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A L L A N L A N D V O E , Police Officer, attached to Police Headquarters, Detective Bureau, called as a witness on behalf of the People, being first duly sworn, testified as follows:

CASE #2110



## DIRECT EXAMINATION BY MR. EDWARDS:

Q Officer, you are an officer of the Municipal Police Force, are you not? A I am.

Q And you are a detective sergeant, are you not? A I am.

Q Assigned at present to the Detective Bureau and to the Homicide Squad at Headquarters? A Yes, sir.

Q Were you assigned to investigate the death of Barbara Wright? A I was.

Q And when? A Between five and five-thirty p.m. on October 28th, 1914.

Q Who was assigned with you to that work? A Detective Sergeant Cornelius W. Willemese.

Q And after the defendant was arrested, on the 15th of September, where did you first see him? A In the 23rd Precinct Station House.

Q And from there where did you take him? A To Room 104, Police Headquarters, Homicide Squad.

Q I show you People's Exhibits 3 and 4, which are two sheets of the same letter, for identification, and ask you if you saw those in the course of your investigation (handing papers to witness)? A I did.

Q And from whom did you receive them; if you recollect?

A From Mr. Deuel, in the District Attorney's office.

Q He had them at the time you saw them? A Yes, sir.

Q Were you present at any time when those were shown to

CASE #2110



the defendant? A I was.

Q Where was that? A In the District Attorney's office, Homicide Bureau.

Q Will you state what, if anything, the defendant said in your presence with respect to that letter? A Why, the letter was read to the defendant.

Q Did you show it to him? A It was shown to him and read to the defendant by Detective Sergeant Willemese, and he was asked if he was the writer of this communication.

Q What did he say? A He said he was.

MR. EDWARDS: I now offer that letter in evidence, the one that Officer Curry said that he found on the person of the deceased.

THE COURT: Mr. Moore, do you object to it?

MR. MOORE: I think it is objectionable. I will read it. (After examining paper) No objection, your Honor.

THE COURT: Is that the letter that Officer Curry said he found in the clothing of Barbara Wright?

MR. EDWARDS: Yes, in Barbara Wright's coat pocket.

MR. MOORE: And this officer says the defendant wrote it.

(Papers received in evidence and marked People's Exhibits Nos. 3 and 4, respectively, of this date.)

MR. EDWARDS: I will read the exhibits:

"New York, October 26, 1914.

CASE #2110



"Dear Barbara:

"I can't help to write you a few lines, and let you know", -  
he spells it "now" - "that I have changed my mind, and don't  
"left the city, because I am sure that I be back soon. Now  
"in other things I don't feeling good the last few days. I  
"work only one day last week. I been by him to told him  
"that I not left New York, so he ask me when I come to work,  
"but I told him that I not feel good, and that I will let him  
"no when I start in again, and you know for what, Barbara,  
"I am thinking of you day and night, but no wonder if I  
"think of the times we have together for a year long that you  
"have given your body to me, and let me do what I please with  
"you. In Mark's boarding house every day upstairs in your  
"room so long that we get caught, and live the cook have us  
"lost our job, because she know all what happen between you  
"and me. I wish that I never had met you in my life. I  
"be better off than now. Just look the time I came to Mark's  
"boarding house from the country where I have been working  
"for a whole season and have my best reference where I can  
"show you and than I meet you, the first day you start to  
"give me some whiskey out of a bottle of which you have in  
"the pantry. Since that time we emptied hoven flesch",  
whatever that means, "rum and whiskey. After we left  
"Mark's house you told me to take you to a hotel, so you  
"show me the hotel on Eighth street and Sixth avenue, where  
"we have been sleeping. After that for many nights also

CASE #2110



"the room on Columns avenue, 810. Then you told me that  
"you go get a flat for your own and I could stay with you,  
"so you did. You let me go all over the rooms we have a  
"lot of good times the first few weeks, and then the jeal-  
"ousy came in your son. Remember the night that I been  
"wash your clothes, and he take you away in the front  
"room because you was fooling a little bit that time around  
"me. Then it start in so, make hooks on the doors, to  
"mean to say to here no farther. Then you have told me  
"if I want to make some pea in the morning but was", then  
there are two words I can't read, and the last three  
are, "so do it". It looks like "wild shop".

"Then I see coming that I had to move. You was treating  
"me no more like you did the first weeks and then I start  
Qto drink a little and so trouble came in. After I was  
"trying to do everything (in the face on earth) for you  
"what I was able to do. I bring you every night something  
Qfor you and George, but how more I didn't know how bad  
"you was treating me, and now you told me that other day  
"that I was a stranger for you, and that you not care for  
"me.

"Barbara, for what you let me go so far with you?

"Could you tell me that? So we left Mark's boarding house  
"instead to write me letters.

"I just look over some letters, that you called me sweet  
"heart. I was wondering that time if you mean that,

CASE #2110



"and now you say for what I don't forget you. You think  
"that is so easy for me. Every man is not the same.

"I have tried to forget you, but I can't. I hear your  
"voice when I go, and then something like this (haven in  
"him) he is in love with L. pet. Good by. Don't forget  
"and get \$25.00 from the bank and be good boy now. You  
"never have seen me that time, but still I was there.

"Barbara, I could tell you something else, you will be  
"surprised, but let me stop this. I will keep this for  
"me.

"Now, don't think that I write this all out bad meaning,  
"but just Barbara so to make you understand that I am not  
"a stranger to you, so you have told me the other day.

"I wish that I could forget you, but you have let me  
"go too far with you to forget like this. It is easy to  
"say for you maybe and I think you is just to do this game.  
"I remember what you told me from Fred, John Weber, Spain  
"fellow, Lorenz, and maybe some more what I don't know,  
"and now I see you make up with another man that morning  
"what work in your same place. He soon will be another  
"what get crazy of you, but remember that someone will  
"not stand for this. Then happen lots things than love  
"affairs in this world. Shall not in may to fool with  
"things like this, believe me kid.

"Well, Barbara, I hope that you will look over this once  
"more. In the first place, don't pass me or you ever see

CASE #2110



"me on the street. I shall not but in in you or your  
"business. Go as far as you like, but promise me that I  
"can see you and George sometimes. All is once in a week,  
"or every two weeks, and then I will get over it nicely,  
"but not like this.

"You know, Barbara, what love is. You have expressed  
"enough to know what that is to a man. If you have any feel-  
"ing for me, or don't care for me, I am sorry to know first  
"now, but don't put me off like this.

"What I have done in my drunkenness that time I was in  
"your house you know yourself what make me to drink that  
"time. Barbara, I ask you kindly please forget all this  
"and let us make any more trouble. Be good and think this  
"over. Give me another chance only to talk to you, that's  
"all, and we all get over this easy.

"My paper getting full. I could write in other times  
"like this more to tell you something, but is enough so far.  
"I don't feel good right now. I am not working yet, maybe  
"not for the end of this week, I will start in again, but  
"I want to know something first.

"My best regards to George. By by, Barbara, be good.

"From, John."

Q Now, officer, after the defendant's arrest did you learn  
where he had been living just before his arrest? A I did.

Q Did you visit those premises? A Yes, sir.

Q With whom? A Detective Sergeant Willemese.

CASE #2110



Q And did you there in those premises find this suit case that I now show you (exhibiting suitcase to the witness)?

A Yes, sir.

Q And contents that are now in it? A Yes, sir.

Q And among those contents was there this picture which is marked People's Exhibit No. 6 for identification (handing exhibit to witness)? A Yes, sir.

Q That was in the room occupied by the defendant before his arrest? A It was in his dress suit case.

Q Where? A In the suit case that was in the room.

Q And that was this suit case which I show you? A Yes.

Q Did you have any talk with the defendant about this picture? A Yes, sir.

Q When? A On the morning of September 16th, in Police Headquarters, I asked him whose picture that was, and he says that was Mrs. Wright, George Wright's mother.

Q And what did he say about the frame? A He said that he had made that frame in a candy factory around Easter time, where he was employed, in South Brooklyn.

Q Did he say what Easter? A Last Easter.

MR. EDWARDS: I offer that picture and the frame in evidence.

MR. MOORE: No objection.

THE COURT: Received.

(Picture and frame received in evidence and marked People's Exhibit 6 of this date.)

CASE #2110



THE COURT: Did Officer Curry testify when and where he found that letter? He found it in the clothing, but did he say where he found it, whether it was in the hospital, or on the street?

MR. EDWARDS: He found it on the body, in the clothing on the body when he took it to the station house. The body never went to the hospital.

Q Officer, have you made any effort to locate Miss or Mrs. Anderson, of 114 East Fifth-third street? A I have.

Q And have you been able to get any trace of her? A No.

MR. MOORE: We will concede, if the Court please, we have been unable to locate Mrs. Anderson, as well.

MR. EDWARDS: I might say we have hopes of locating her before the end of the trial. We found out where she stored her furniture when she went to the hospital, but she has not been back there for some time.

MR. MOORE: We have been unable to locate her ourselves.

MR. EDWARDS: That is all, officer.

CROSS EXAMINATION BY MR. MOORE:

Q He told you he made this frame out of candy at the last Easter, 1915, did he not? A 1915, yes, sir.

Q This last Easter? A Yes, sir.

Q Did he say anything at that time about his having affection for this lady, Mrs. Wright? A No, not at that time.

Q Either before or afterwards, did he? A No, he said that he liked her.

CASE #2110



Q And this was her picture and he kept it and framed it last Easter in this manner? A Yes, sir.

MR. MOORE: That is all.

MR. EDWARDS: If your Honor please, the People have only two other short witnesses, one is an employer of the defendant, from Brooklyn, a foreman of the concern; he is coming here, and he left there saying he would be here by half past three. The other man I expected to have here is the Secretary to the Consul General of the Netherlands, and he also telephoned he would be here before this. May we adjourn for five minutes? I don't think they will be longer than that.

THE COURT: Yes, they may be here any moment. (To the jury) You must not discuss this case, nor form or express an opinion on it, but keep your minds open and free until the case is given to you. Return here at half past three.

(The court then accordingly took a recess until 3:30 P. M.)

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A F T E R   R E C E S S .

G E R B E N   P U S T H U M A , was called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live? A Staten Island, New York.

Q Mr. Pusthuma, you are Secretary to the Consul General of the Netherlands, are you not? A Yes, sir.

CASE #2110



Q In this City? A Yes, sir.

Q Have you ever seen this defendant, who sits over here (indicating defendant)? A Yes, sir.

Q When did you see him? A Somewhere in January last.

Q And what conversation did you have with him at that time?

A He asked us for proof that he was a Hollander, naturalization papers, and I gave it to him. I asked him what his name was and he said, "Pete Smith", and I was going to spell it, S-m-i-t-; that is the way Smith is written in Dutch; but he signed his name Smith, and "t-h." and I remarked to him that that was something unusual. He said, "My father's name was Smith, with a "t-h" and then I said, "Well, we will let it go."

Q And did you issue to him an identification slip? A Yes.

Q Is this the slip (handing paper to witness? A Yes, sir, that is the slip.

Q Is that his signature which is here as he signed it himself?

A He signed it himself, yes.

Q "Pete Smith", as it appears there? A Pete Smith, but he gave his name as Petrius Cornelius, but that is nothing unusual; it is abbreviated; they call themselves Pete.

MR. EDWARDS: I offer this in evidence.

(Paper received in evidence and marked People's Exhibit 7, of this date.)

CROSS EXAMINATION BY MR. MOORE:

Q Did he say anything at that time of having a name Petrius Von den Corput? A No, sir; if he had said that I don't think I

CASE #2110



would have given him --

Q What did he say his right name was? A Pete Smith.

Q More than that? A Petrius Cornelius Smith, the way it is written on that slip, but he signed "Pete Smith".

MR. MOORE: That is all.

MR. EDWARDS: If your Honor please, I find I omitted to offer in evidence the part of the clothing, the waist, worn by the deceased at the time of her death, which was identified by the officer.

THE COURT: That was offered and marked.

MR. EDWARDS: For identification only. I thought it was marked too, but I find it was only marked for identification.

THE COURT: Well, if it is not in evidence, I will <sup>receive</sup> receipt it.

(Received in evidence and marked People's Exhibit No. 2, of this date.)

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W I L L I A M S M I T H , was called as a witness on behalf of the People, being first duly sworn, testified as follows:  
DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live? A 230 East One Hundred and Fourteenth street.

Q Mr. Smith, what is your business? A My business is confectionery.

Q Whereabouts? A Corner of White avenue and South Fourth

CASE #2110



street.

Q Do you know this defendant who sits over here? A Yes.

Q Did he ever work for you? A Yes, sir.

Q I show you an envelope and ask you if that is one of the pay envelopes of your concern (handing paper to witness)? A (after examining paper) Yes, sir.

Q Is that the defendant's pay envelope, one of them? A Yes, sir.

Q And under what name did he work for you? A Under "Kuypera".

Q As it is spelled on the envelope? A yes, sir.

Q When did he work for you under that name? A It was during the Easter season; that was between December and February.

Q December, 1914, and February, 1915? A About that.

Q And for about how long a period did he work? A Well, he has not worked there since that.

Q Did he ever work for you before that? A No, sir.

Q That is the only name you ever knew him under? A That is the only name.

MR. EDWARDS: That is all.

MR. MOORE: That is all.

MR. EDWARDS: May I have the envelope marked for identification? I may want to use it later. I am not sure.

(Paper last referred to marked People's Exhibit No. 8 for identification of this date.)

CASE #2110



MR. EDWARDS: That is the People's case, sir.

THE COURT: (To the jury) Gentlemen, you will not discuss the case, nor form or express an opinion on it, but keep your minds open and free until the case is submitted to you, and I will ask you to be in your places at half past ten tomorrow morning.

(The Court then accordingly took a recess until tomorrow, Thursday, October 21st, 1915, at 10:30 A.M.)

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CASE #2110



THE PEOPLE ETC.  
-against-  
PETRIUS C. von den Corput,

New York, Thursday, October 21st, 1915.

TRIAL CONTINUED.

THE DEFENDANT'S CASE.

Mr. Moore opened the case to the Jury on behalf of the defendant, as follows:-

May it please the Court and gentlemen of the Jury; Our defense in this case will be very brief, as a part of the case that we intended to prove has already been proved by the District Attorney.

The defendant will take the stand in his own behalf and be, in the unfortunate situation we are in, the only witness we are able to call. He will tell you much that has already been brought out on cross examination, and he will say to you that he had worked for Jacobson off and on at different times in the year preceding this year, and also during this year.

Prior to that, he became acquainted with the deceased, where they were working together, under the same employer, and that they became affectionate one towards the other, so much so that he gave her their joint earnings, and she deposited the money in the savings bank in her account, with an intention at some time of getting a flat, and that along in July, I think it was, of last year, she

CASE #2110



did draw fifty dollars out of the bank to make some furnishings for the flat, and they went to live in this place where she lived at the time of her death.

That after a little time living together their relations became somewhat strained, possibly because he was intoxicated, or be that as it may, affairs were such that upon the one occasion -- the officer is in error when he says it was about a week before her death -- it was at the time we were ejected from the house-- he refused to go, thinking that he had paid the rent and paid for the furnishings, and the officer was brought there and put him out, or, rather, told him he must get out. I don't think any force was used. He left the place, and from that time until the 6th of September he continued as he saw the woman to importune her to live with him or give his money back or do something, so much so that on the 6th she caused his arrest.

Just why he was committed I don't know. I have been unable in my investigation or upon the trial to ~~know~~ why he was sent to the workhouse, but he was, for ten days.

Now, neither do I know just why there was some talk with reference to the knife here that has been spoken of and identified. A certain knife was found upon his person at the time that he was arrested, and that knife was returned to him when he left the workhouse, and was by

CASE #2110



him then upon his discharge given to one of the keepers in the workhouse who liked the knife. He gave the knife to him upon his release from the workhouse. We have not seen it since, and I don't understand there is any pretense that it had anything to do with the murder in this case.

Now, at the time that he was arrested and committed, on the 6th of September, as has already been sworn to, and as he will tell you, the Judge who sentenced him to the workhouse admonished him that he must leave this woman alone, that he had no right to be annoying her, and he had no right to be following her, speaking to her on the street, if she did not want to speak to him, and he will tell you, as the young man told you, that from that time up until the time that he left this neighborhood he did in no way molest her.

The officer is in error, as I say, when he said he removed him from the premises about a week before her death. It was the latter part of August or the first of September when that was done.

He continued to work. He had no money. He was something of a roustabout, as you might call it, working now and then in the afternoons for Jacobson and now and then a night for Jacobson, and living as best he could at different places; and about one week before the death of this woman -- and the only way we have of fixing the

CASE #2110



death or knowing of the death, he will tell you he did not know of it until he was arrested, and as we figure events, about one week before her death he took a room with Mrs. Anderson, at No. 114 East 53rd Street, and was to pay a certain sum, as he understood, per week.

He had lived there until the day which I think was probably the day, as has been fixed by Jacobson, when he left there-- at any rate until the day that he got the fifty cents from Jacobson. That day Mrs. Anderson insisted that he must pay fifty cents more; his money was all gone, and that he could not stay in the room unless he paid more, and some altercation took place, he thinking he was paying by the week and she claiming that he was to pay by the day, at fifty cents a day, and that he could not stay there that night unless he did pay her fifty cents; and he goes to his room on that particular day, some time during the day, and he finds that the sheets and clothing had been taken off his bed, so that it could not be occupied; and then he went-- he fixes the time; he can't fix it definitely; Mr. Jacobson says he thinks it was around two o'clock; and right here, gentlemen is where it becomes of supreme importance to all of us, I think, the time when the woman was killed is fixed very definitely at three o'clock, and he says it was between two and three o'clock on this day that he got

CASE #2110



the fifty cents, that he went to Jacobson's place, Jacobson having two places of business.

He went to Jacobson's place, as already has been testified to by Jacobson, at 632 Eighth Avenue, and that is just in the neighborhood of fortieth street, and he went there between two and three o'clock, to get what money he supposed he had coming to him, that he might have a place to sleep that night.

Now, he says that he did not get the money that he did get from Jacobson, but that he got from the cashier, not fifty cents, but he gave him twenty-five cents and a package of cigarettes, making up the fifty cents in that way, and said that was all that they owed him.

He did want fifty cents in money, but he gave him twenty-five cents and a package of cigarettes, and it was about three o'clock when he left this place; that is his recollection, or at least, he thinks it was the middle of the afternoon, between two and three; and, mind you, that is over on Eighth Avenue, at Fortieth Street, quite some considerable distance from where this woman was killed at three o'clock on that day.

We had intended to call Mr. Jacobson in support of our alibi that he was in their place, to show that when the time that this woman was killed it <sup>physically</sup> would be impossible for him to be over at the other place, because a man

CASE #2110



with only the twenty-five cents in his pocket would not be taking cars to go this journey over, but certainly would walk, and if he got there and has his controversy with Jacobson, as Jacobson says, around two o'clock, and, as we say, between two and three, it would be next to impossible for him to be over where this woman was killed.

Now, he says that, having only that amount of money, and no assurances of work, a job, that he went from there down on the Bowery, seeking to get employment, that he might, or, at least, seeking to get a cheaper lodging, and that he got a lodging, on the Bowery, I think he will tell you somewhere it was, where he could lodge for fifteen cents a night.

That he continued in that lodging house until he got this job with Beef-steak John's, or known as Beef-steak John's, on the Bowery, No. 221, through the management of Mr. Wagner. He got that, he thought, about the first of November, but Mr. Wagner says it is the third; and that from different waiters that he had known in the mean time he got a few pennies here and there to subsist on until he got this job.

Now, as Mr. Wagner has testified, we had worked for Wagner a year before for some considerable time, in the same kind of employment, and by reason of his unsteadiness of habits, -I think it was getting intoxicated--

CASE #2110



Wagner discharged him; and yet he was down and out and was desperate and had no place to go to work, as he says, and he made application to this institution for work, and he didn't give the name of Hendricks, or Heinrick, because he had worked under that name before and had been discharged because of his irregular habits, and he told him then that his name was Peter Smith, his right name being Peter, I think, and Hendricks-- not his right name either, but von den Corput being his correct name.

That he worked for him two days under the name of Peter Smith, as Mr. Wagner says, two or three days. Then Wagner asked him if his name was not John Hendricks, and he said that it was, and that he asked him why he gave the name of Peter Smith, and he said to him then, "Because I was afraid that you would not give me employment if you remembered me as the man who was here and was discharged because of my irregular habits." There was no secret about that. He told his name within two days.

He then when he got this employment engaged rooms across, almost directly across the street from Beefsteak Johns, in a Bowery Lodging house, and lived there until he got through working for this concern, the latter part of 1914.

He then went to work for these candy people; had

CASE #2110



worked there, as they said, and as we intended to call them to prove, several months.

He didn't during any of this time know that the woman was dead, had ceased to enjoy her, and was trying to forget her.

I think that the letter that has been introduced in evidence shows that he had a genuine affection and love for the woman, and he says that is true, that he did have, and that she had spurned him, had him locked up, and he had tried to forget her. That, therefore, he did not bother her any more, but he could not ~~xxx~~ keep her out of his mind, and he being as well a cook and waiter and all around handy man and candy maker, and still carrying and treasuring her picture, he made, along about the time of the Easter offerings, the candy picture frame that has been introduced in evidence, and mounted this picture of the woman that he loved as late as Easter time this year, and carried that about with him wherever he went from then until the time that he was arrested.

Now, he went back to this neighborhood several times, and without any knowledge of her death, or, certainly, without any suggestion that anybody was looking for him and did go back to Jacobson's place on the day that he was arrested, the 15th day of last September, because he was out of employment, he had no money, he had nothing

CASE #2110



to eat, and he was looking for some place to stay or get some work, and he applied to Jacobson then for work, and Jacobson immediately recognized him and asked him if he was not John Hendricks, and he said yes.

Now, Mr. Jacobson differs just a little bit here with Hendricks. Jacobson says that he called Hendricks in. Hendricks says that that is not--

THE COURT: Aren't you summing the case up at this present moment?

MR. MOORE: Well, I suppose so.

THE COURT: I think perhaps it is not in the line of opening, just this particular matter that you are addressing the Jury on.

MR. MOORE: I was saying that we differ from his statement, in that we were going to Jacobson's place to seek employment, and we got there, and he had a conversation with Jacobson, in which Jacobson asked him if he was not John Hendricks, and he said that he was, and he talked with him there a spell, and the first we knew an officer came in and this defendant was arrested.

Now, immediately upon being arrested he was taken by the authorities, properly so, to some detention place, headquarters or wherever it may be, and he was there interrogated as to what he had been doing since he left this place on 53rd Street and since he left Jacobson's

CASE #2110



employ, and he then told them the same as I tell you now, the reasons for his leaving, the places where he had worked and the names under which he had worked during those places, and furnishing to the police information that we will furnish here.

Now, that, gentlemen, briefly, is his story of his life and transactions for a year since the murder. He will tell you also that he had nothing whatever to do with it, of course, was not there; that he did not have upon that day either a brown suit of clothes, as some of these identifying witnesses have said, nor a blue suit of clothes as others have said; that he never had but the one suit of clothes at the time, and at that time he had a black suit of clothes; and that when he was arrested he had on the same suit and the same hat that he has today. He will positively deny having anything to do with it.

That, gentlemen, briefly, is the defense in this case.

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P E T R I U S      C O R N E L I U S      V O N      D E N      C O R P O U T  
the defendant herein, called as a witness in his own behalf,  
being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. MOORE:

Q    Where do you live?    A    Eighth Avenue, between 29th  
and 30th Street; I do not know the number.

CASE #2110



Q How old are you? A Thirty-five years old.

Q And where were you born? A Holland.

Q How many years have you been in this country?

A About four and one half years.

Q And when you first came to this country what work did you do? A Railroad work.

Q Speak a little louder, please; I didn't hear that.

A Railroad work.

Q Railroad? A Yes, sir.

Q And by what company were you employed in railroad work?

A I think it was for the Central Union.

Q How long did you work for that railroad Company?

A About two months, I guess.

Q Then what did you do next? A Back to the City.

Q What? A Back to the City here.

Q And what did you do in the City? A Working at Rockaway, in a hotel.

Q Kitchen work? A Yes, kitchen work, in the pantry.

Q And what places did you work in the City after that?

A For Mrs. Marks, a boarding house.

Q And how long did you work for him? A Up until January, the last of January.

Q How long a time? A About four months.

Q The first of January, what year? A 1913, I guess it would be.

CASE #2110



Q 1913, or 14? A I guess 13.

Q While you were working for him, did you become acquainted with Barbara Wright? A Yes, sir.

Q What was she doing at that time? A Waitress.

Q What? A A waitress.

Q In the same household? A The same house.

Q And after that, where did you work? A College Point.

Q How long did you work there? A About a month and a half.

Q And during that time do you know where Barbara Wright lived? A Yes, sir.

Q Where? A 52nd Street, the Womens' Club.

Q And where did you live? A College Point.

Q After you got through working there, where did you go to work? A The Campus.

Q What street is that? A 104th Street and Columbus Avenue.

Q How long did you work there? A About two months or two and one half months.

Q And during that time where did Barbara Wright live? A The same place, 52nd Street.

Q And after you worked at the Campus, where did you work? A Park Circle, Brooklyn; I don't know the name, but on Smith Street.

CASE #2110



Q The Park Circle restaurant? A Park Circle Inn.

Q How long did you work there? A One month.

Q Then where did you go? A Back to the City.

Q And where did you live then? A Between 4th and 46th streets.

Q And where did Barbara live then? A The same place, 52nd Street.

Q How long did you live there? A I lived there about a month.

Q And then where did you go to work? A In Eighth Avenue.

Q And where did Mrs. Wright go? A The same place.

Q Where? Eighth Avenue? A No, 52nd Street, the Womens Club.

Q What? A 52nd Street, the Womens Club.

MR. EDWARDS: The Womens University Club, in 52nd Street.

Q When did you and Mrs. Wright go to live on 53rd Street?

A About the middle of August.

Q Last year? A Last year, yes, sir.

Q How long did you live there with her and her son?

A About four or five weeks.

Q And then what happened after you had lived there four or five weeks? A Well, one time we had a little drinking there, drinking together, and a friend comes to see her, and

CASE #2110



I asked her who he was.

BY THE COURT:

Q What is that? A I asked Mrs. Wright who he was. She said, "He is a friend of mine", so she told me, and she got mad, and she told me if I drink to get out<sup>out</sup> of the house.

BY MR. MOORE:

Q And you didn't get out, did you? A Not right away, sir.

Q Did she send then for an officer and have you put out? A No, sir.

Q What was there about the officer? A That was the next day, sir.

Q The officer came the next day and told you to get out? A To get out.

Q And did you go out? A Yes, sir.

Q And you never lived there after that, did you? A No, sir.

Q And that was about when, do you think, about what time? A That was in September or October.

Q It was not in October, was it? A September.

Q September? A Yes, sir.

Q You went there, you think, the latter part of July, or the first of August, to live, did you? A No, I started to live there in the middle of August.

Q In the month of August? A In the month of August, about the 14th or 15th.

CASE #2110



Q At any rate, it was before you were sent to the workhouse, wasn't it? A Yes, sir.

Q Now, did you ever live there after you came out of the workhouse? A Yes, sir, I did; not in the same house.

Q You never lived with Barbara Wright after that? A No, sir.

Q Do you remember the time when you were arrested? A I do, yes, sir.

Q Now, what had you been doing or saying to Barbara Wright at that time? Tell us what there was about that?

A Anything at all.

Q What? A I didn't do anything at all. I was just standing at the corner of 53rd Street and Park Avenue, and I see coming Mrs. Wright and her son, and as soon as I seen them she turned back, so I turned back and walked up town, and I was about 57th Street, and somebody was behind me and called me, whistled, so I looked around and Mrs. Wright and her son and the officer was there. I stopped; I walked up and Mrs. Wright told him I annoy her, or something like that; I don't know exactly what it was, and he had me arrested.

Q You were taken to the station house? A Yes sir.

Q And what was done when you got to the station house? A Asked my name and asked me if I annoyed her, and I said no, sir.

CASE #2110



Q Did they search you? A Yes, sir.

Q And did they take your pocket knife away from you?

A Yes, sir.

Q Did you ever get that knife back? A No, sir.

Q Was it returned to you? A It was returned to me, in the police station.

Q When was it returned to you? A In the 57th street police station.

Q Was it returned to you at the time you were being sent to the workhouse, or when, do you remember? A In the police station, in 57th street.

Q And what did you do with it then? A The officer give it to me back, and I give it to one of the keepers in the 57th Street police station.

Q You gave it to one of the keepers? A Yes sir.

Q And you never have seen it since that time?

A Never have seen it since.

Q In the police station you gave it away? A Yes.

Q You gave it to one of the keepers in the 57th street station? A Yes, sir.

Q Do you mean the 57th Street Court? A Yes, sir, I think so.

Q How long were you locked up there at that time before you went to the workhouse? A About three or four days at that time.

CASE #2110



Q Where were you locked up? You say you were taken to the 57th street court, but where were you locked up?

A That was in about 51st street, I think, 51st Street, East.

Q 53rd Street, west, isn't it? A No, east, where I got locked up.

Q And you gave it then to one of the keepers where you were locked up on 51st Street? A Excuse me; I have been locked up there, but I was sent over to the 57th street police station, and there I gave it to one of the keepers.

Q Now, at the time that you were sent to the workhouse for ten days, did the court say anything to you about not bothering this woman? If so, what was it? A Yes; he says "You better leave this woman alone, and don't bother her". I don't know exactly what happened; something like that.

THE COURT: Now, Mr. Witness, speak out loud.

You are on trial here. Speak out so every one of the jurors can hear easily everything that you say.

Q Now, from that time, have you ever bothered her in any way when you met her on the street, or at other times?

A Yes, I have seen her often.

Q You have seen her? A Yes.

Q But have you talked with her? A I talked with her.

Q How many times? A Oh, about two or three times, I think.

CASE #2110



Q When was it that you went to live at 114 East 53rd street, Mrs. Anderson's? A It would be about in October.

Q How long did you live there? A About a week and a half.

Q Will you tell us what your arrangement was, what you were to pay for a room there? A I paid two dollars, in advance, for a week.

Q And how did you come to leave there? A The next week I paid up for half a week, gave her one dollar, and I stayed only two days there, and then in the morning when I came out she called me over.

Q Louder, please? A The day I came out, two days after that, she called me in the kitchen, and I had to pay fifty cents. I told her I had paid a dollar on Sunday for a half a week. She told me she don't do that kind of business, "If you don't pay a full week you have to pay fifty cents for a night."

Q What did she say about paying for that night, do you recall? A I was going out that morning, and I walked on the street, and I came back about one o'clock, one or half past one.

Q And then what did you find in your room when you came back that afternoon? A I came in the room and my bed was all folded up and everything was taken off.

Q Then what did you do? A I looked for Mrs. Anderson, or what's her name.

CASE #2110



Q Talk louder? A I looked for Mrs. Anderson; I don't know exactly the name; and she was not there.

Q Then where did you go? A I came out and walked up to Eighth Avenue.

Q What number on Eighth Avenue? A I don't know exactly the number; the restaurant of Mr. Jacobson.

Q And about what time was it when you got over to Mr. Jacobson's restaurant on Eighth Avenue? A Between two and three o'clock.

Q Between what streets is this number on Eighth Avenue where Mr. Jacobson's restaurant is? A 1441.

Q When you got over there, tell us what you said and did? A What do you mean, in the restaurant?

Q Yes. A I walked in, and I see Mr. Jacobson, not Mr. Jacobson; I see his partner there; and I asked if he could help me with fifty cents; so I talked about different things; we were eating at the time; I was sitting down; his partner was eating; I sat there.

Q The cashier? A No, not his cashier; his partner.

Q Go on and tell us? A So we finished, and I asked if he could help me with fifty cents, and he wouldn't give it to me. He said "because you didn't work last night", and so on and so on. So I walked to the cashier and I asked him, so he gave me twenty-five cents and a package of cigarettes.

Q What did he say about that being all that he owed you? A Who? Mr. Jacobson?

CASE #2110



Q The cashier, or anybody? A Mr. Moore is the cashier. He give me twenty-five cents and a package of cigarettes.

Q About what time was it when you left there?

A It would be close to three o'clock.

Q And from there where did you go? A Down town.

Q Whereabouts? A I walked on Eighth Avenue, up to 23rd Street.

Q Whereabouts did you go? A I walked up to Seventh Avenue, east, and walked to Fourteenth Street.

Q Had you ever worked on the Bowery before this?

A Yes, sir, I did.

Q Whereabouts on the Bowery had you ever worked?

A 221.

Q And what place is that? A Mr. Wagner.

Q Is that the place that is known as Beef Steak Johns place? A Yes, sir.

Q And where did you lodge that night? A At one of the lodging houses in the Bowery, a cheap lodging house, fifteen cents.

BY THE COURT:

Q Where? A I believe near Hudson Street; some where in a lodging house; I don't know exactly the name.

BY MR. MOORE:

Q Was that a lodging house? A It was a lodging house.

CASE #2110



Q And what did you have to pay for a bed there?

A Fifteen cents.

Q Fifteen? A Fifteen.

Q Where next did you get work? A I next got work from Mr. Wagner.

Q And when did you begin working for Mr. Wagner?

A I think in November, about November.

Q First of November? A About that, first or second of November.

Q Now, you say you had worked for Mr. Wagner before, the year before? A Yes, sir.

Q Did you have some trouble with Mr. Wagner when you worked the year before? A Not any troubles, but only I left him without giving any notice, in a rush; they were very busy, and I walks out.

Q You say they were pretty busy, and you were not there? A Yes, sir.

Q As a matter of fact, you got intoxicated; that is the reason you were not there? A Yes, sir.

Q And he discharged you a year ago? A A year ago.  
BY MR. EDWARDS:

Q Did he discharge you? A Yes, sir.

BY MR. MOORE:

Q What name did you give when you went to work for Mr. Wagner? A Peter Smith.

Q Will you tell us why you gave the name of Peter Smith

CASE #2110



when you went to work at this place? What was the reason?

Why did you do it? A Well, I been working before under the name of Hendricks.

Q You must talk louder? A I been working before under the name of Hendricks, in the same place, and on account I was afraidn he would know me I gave another name.

Q After you had worked there a day or two, did you have some talk with him about your being John Hendricks?

A Yes, sir.

Q What was that? A He asked me if I ever worked for himbefore, and he looked at me, and I says, "yes, sir".

"I thought so", he said; that is all.

Q Did he also ask you what name you workedunder?

A I can't remember, sir.

Q Can't remember that? A No, sir.

Q Where next did you work? A Brooklyn, candy factory

Q Where? A Brooklyn.

Q How long did you work there? A Extra, for the Easter, about four or five weeks.

Q And was it while you were working at this candy factory that you made the candy photograph in evidence here, people's exhibit No. 6 (handing witness people's exhibit No. 6)? A Yes, sir.

Q And whose photograph is that in the center?

A Mrs. Barbara Wright.

CASE #2110



Q And did you mount that picture in the manner that it is mounted now? A Yes, sir.

Q Now, I ask you, Peter, if during the time you knew Barbara Wright you did not learn to love her? A I don't understand.

Q I will try to put it a little plainer. After your acquaintance with Barbara Wright, long acquaintance, I ask if you did not love her? A Certainly, I did like her.

Q And do you still? A Well, I like her, certainly I do.

BY THE COURT:

Q What is that? A I like her.

Q What is that? A I like this woman.

BY MR. MOORE:

Q And you did at the time, last Easter, when you made this candy frame, did you not? A Yes, sir.

Q The letter that is in evidence here, you wrote that letter, did you not, to Barbara Wright (handing letter to witness)? A Yes, sir.

Q And is it true, as you say in there, that you did love her at that time? A Yes, sir.

Q And that you could not forget her? A Yes, sir.

Q And would not forget her? A Yes, sir.

Q And you never have, have you? A No, sir.

Q Now, I ask you if, on the two days after you wrote this

CASE #2110



letter, the 28th of last October, you met her in East 53rd street and stabbed her to death? A No, sir.

Q You never harmed her in any way, did you, in your whole life? A Never; always spoke gently to her; never had any troubles with her, except that day when I got out.

Q When you got drunk? A When I got drunk.

Q Even then you didn't say anything -- abuse her in any way? A Nothing at all.

Q Now, where were you arrested? A 57th Street and Park Avenue. Oh, excuse me, you mean lately?

Q I mean the last time? A On 39th Street, corner of Seventh Avenue.

Q That is, you were not arrested in Jacobson's restaurant? A In the restaurant.

Q And that was one of the restaurants where you had worked? A Yes, sir.

Q In October of the year preceding? A Yes sir.

Q How did you happen to go to this restaurant where you were arrested? A How I go?

Q Yes; how did you happen to go there? A That morning I been looking for work. I walked on Eighth Avenue up to 55th Street, I guess, and came back and walked on Seventh Avenue, and passed the store. I see Mr. Jacobson and his partner behind the counter. I look in, and he made a kind of greeting to me, and at the same time I walked in; I sit

CASE #2110



down and talked with him. He asked me where I have been. I told him I have been in the country; I just come back from the country. I told him a story. I never was in the country. So he asked me if I will have a cup of coffee. I said yes. So he gave me a cup of coffee and a couple of crullers. After I eat this, he asked me if I would work for him on Friday, which was a holiday; I told him if I don't strike anything certainly I will help him out. At the same time an officer comes by, and he calls the officer in, and he said, "have this man arrested".

Q You knew both Jacobsin and his partner, and recognized them when you went into the place? A Yes, sir.

Q And they recognized you? A Yes, sir.

Q Was it at the time of your arrest that you first learned Barbara had been killed? A No, I know nothing about it.

Q Until then? A Yes, sir.

Q When you were arrested, where were you taken?

A Down to the police station; I don't know what street.

Q And from there where were you taken? A Into headquarters.

Q Were you examined by the officers at headquarters?

A Yes, sir.

Q And did you tell the officers then what you have told the jury here now, about your movements for the last year?

CASE #2110



A Most of the part I have.

Q Tell them about working under the name of Smith?

A Yes, sir.

Q And where you worked? A Yes, sir.

Q And why you worked under that name? A Yes sir.

Q Now, I ask you what suit of clothes you were wearing at the time you were arrested and taken to police headquarters?

A A black suit of clothes.

Q At the time you were arrested this trip, the last time? A This suit of clothes I have on now.

Q And that is the only suit of clothes you have got, isn't it? A The only suit of clothes I have since I have been arrested.

Q And you have been wearing it ever since your arrest, last September.? A Yes, sir.

Q And is this also the hat that you had at that time?

A The same hat, sir.

Q And it is the only hat or cap that you have got, is it not? A The only hat, yes, sir.

Q What kind of clothes did you wear on the day that you got the twenty-five cents and the package of cigarettes from Jacobson? A A black suit.

Q And was that the only suit of clothes that you had at that time? A Only suit of clothes I had at that time.

Q Did you have a brown suit then? A No sir.

CASE #2110



Q Or did you have a navy blue suit at that time?

A No, sir.

Q What kind of hat or cap were you wearing?

A A dark blue cap.

Q At the time? A Yes, sir.

Q A black suit and a dark blue cap? A Yes sir.

Q You didn't have on a light cap? A No, sir.

Q Nor a gray cap? A No, sir.

Q But a dark blue one? A Yes, sir.

Q Do you remember seeing the boy Fenn? A What is that?

Q Fenn, George Fenn, before you saw him on the witness stand day before yesterday? A Yes, sir.

Q Where did you first see him? A At headquarters.

Q And where was it that you saw him? A He come in the room while I was sitting in headquarters, in the detective office, and he opened the door and looked in.

Q Not so you saw him, but at any rate you could recognize him? A I was sitting in front of the door when it opened, and two men run to the door, and "don't do that; leave him out; give that boy a square deal".

Q What is that? A One of the detectives said, "Don't let them come in. Give that man a square deal".

Q That is, the officers said that? A Yes, sir.

Q They pushed the boy out, and wanted to give you a

CASE #2110



square deal? A Yes, sir.

Q You didn't see the other men at all? A No sir.

MR. MOORE: That is all.

CROSS EXAMINATION BY MR. EDWARDS:

Q What was the day when you went to live at 53rd street with Mrs. Anderson? A The month of October.

Q Yes; well, what part of October? A It must be about the 10th or 12th.

Q How long did you live there altogether? A A week and a half, sir.

Q Why did you go up, there on East 53rd Street to live?  
A Well, I used to live there before.

Q Why did you go there to live then? A What is that?

Q I mean, why did you go there in October to get a room? A I had been there living before, and I liked that neighborhood there.

Q Hadn't the Judge told you when you were sent to the workhouse to keep away from Barbara Wright? A Yes sir.

Q You knew she lived next door but one to that house, didn't you? A Yes, sir.

Q You still loved her, didn't you? A I loved her, certainly.

Q What? A Yes, sir.

Q Was that why you went back to live a door away from her? A No, but I liked the neighborhood; I was living

CASE #2110



there before.

Q The Judge told you to keep away from her?

A The Judge said, "Keep away; it is best to leave the woman alone and don't bother her".

Q How many times did you annoy her after you came back from the workhouse? A I never have annoyed this lady at all, sir. I always have talked gently to her.

MR. MOORE: I object to the question, upon the ground it assumes something not in evidence.

THE COURT: Objection sustained.

Q Did you speak to her at all after you came out?

A Yes, sir, I did.

Q Do you remember the day that you were arrested for having this knife in your pocket? A Yes, sir.

Q Do you remember what Barbara Wright said to the police officer in your presence on Park Avenue on that day?

A Yes, sir, partly of it; not exactly.

Q Do you remember her telling the officer that you had threatened her with that knife? A What is that?

Q Do you remember her telling the officer that you had threatened her with that knife that day? A No, sir.

MR. MOORE: I object to that. The officer says no such thing was said, if the Court please.

Q This is the knife that was found on you at that time, isn't it? A Yes, sir.

CASE #2110



Q That is the same knife? A Yes, sir.

Q What did you use that knife for? A I got that knife since I come back from the country, from the railroad work.

Q From where? A The railroad work.

Q Did you use this knife in railroad work? A Yes sir, when I was in the commissary.

Q What did you use this deer handled knife for in the commissary? A To cut bread and meat and anything.

Q Cutting bread with it? A Yes, sir, and meat and anything we had.

Q Didn't they have their kitchen knives for cutting meat and bread? A No, sir, they have to have their own knife.

Q Is this the knife you got for that? A Yes sir.

Q How long had you had this knife? A About three years, three and one half years.

Q Did you ever use that blade for anything? A No.

Q A brand new blade? A Yes, sir.

Q Never used it? A No, sir.

Q And you say you had it four years? A Three years.

Q Didn't you say you used it in the railroad work, in the commissary? A No, sir.

Q What did you tell us here a minute ago? A When I

CASE #2110



came back from the country, from the railroad work, I buy this knife, because maybe I go back to the railroad work again.

Q What did you use it for? A I never used it. I bought it after I came from the railroad work.

Q But you never went back? A No, sir.

Q You never used it? A No, sir; put it in my valise.

Q Where did you buy it? A I couldn't tell; some store in New York.

Q Is that the knife that you gave to the police officer after you came out of the work house? A Yes, sir.

Q It is, isn't it? A That is the same knife.

MR. MOORE: Before he went to the workhouse.

Q Did you give it to him before you went, or after you came back? A When I left there to go ten days to the workhouse.

Q Did you ever show that knife to Barbara Wright?

A No, sir, never.

Q Did you have it in your house when you lived there?

A Yes, sir.

Q You carried it in your pocket all the time, didn't you? A No, sir; in my hand-bag.

Q In your bag? A In the satchel.

Q And Barbara Wright never saw it? A I don't think she did.

CASE #2110



Q Didn't she tell the officer, in your presence, that you had a knife in your pocket, and isn't that ~~that~~ why he searched you for it? A No, sir; she said I had a gun or a knife in my pocket.

Q How did she know you had a gun or a knife?

A I don't know myself.

Q But she was right? A (No answer)

BY THE FOREMAN OF THE JURY:

Q How much did it cost you? A I couldn't tell. About two dollars, or a dollar and a half, or two dollars.

BY MR. EDWARDS:

Q Didn't you hide behind the door on the 6th of September, with this knife, and when Barbara Wright came out of her apartment didn't you threaten her with it, and didn't she run away? A Never did.

Q When was the last time before the 6th of September, the day you were arrested, with this knife, did you speak to Barbara Wright? A After I come out of prison?

Q Before you went to prison? A Before?

Q Yes, the last time before you went to the workhouse for that ten days did you speak to her? A I never talked except that Sunday.

Q What? A Except that day I get arrested.

Q Is that the only time you spoke to her since you left the house? A Once in 52nd Street, before she started

CASE #2110



to work.

Q Never had any trouble with her? A No, sir, only she told me not to annoy her, because I will put you away for five or six years.

Q Didn't you trouble her at all? A Yes, sir.

Q On this 6th day of September, did you speak to her at all, the day you were arrested and sent to the workhouse?

A No, sir.

Q Didn't talk to her at all? A No, except with the officer.

Q That is, she had you arrested without your having done anything? A Anything at all.

Q When did you first see her after you got out of the workhouse? A In 53rd street, I think I see her once, and different places.

Q How long after you got out of the workhouse was it?

A A week or two weeks.

Q What day did you get out of the workhouse?

A I can't remember, sir.

Q Well, you were arrested on the 6th of September, and you were in the workhouse ten days, and your case was adjourned three days. About two weeks after the 6th you got out. That would be about the 20th of September. When you came out, where did you go to live then? A In Eighth Avenue.

CASE #2110



Q How long did you live there? A I couldn't tell exactly. About a couple of weeks.

Q Did you see Barbara while you lived in Eighth Avenue?

A Yes, sir.

Q Where did you see her? A Park Avenue.

Q Whereabouts on Park Avenue? A 53rd Street.

Q What? A 53rd Street.

Q 53rd street? A Yes, sir.

Q Where were you working then? A Eighth Avenue.

Q What were you doing over there at 53rd Street and Park Avenue? A I was living there.

Q You told me you were living at Eighth Avenue?

A I worked at Eighth Avenue.

Q Did you live in 53rd street when you first came out of the workhouse? A No, sir.

Q Where were you living then? A Down town.

Q Well, I ask you how soon after you got out of the workhouse you saw Barbara Wright? Can you tell me?

A Yes; I saw her; I don't know exactly what time I seen her.

Q How long afterwards? A week, or two weeks or three weeks? A Two or three weeks; I couldn't tell exactly.

Q You were not living at 53rd street then, were you?

A Yes, sir; I wasn't living there at that time.

Q The time you first saw her after you came out of the

CASE #2110



workhouse, were you living in 53rd Street? A No, sir.

Q What were you doing in that neighborhood?

A Just looking around.

Q What? A I came around there looking for a room.

Q You were living down town? A I was living there before with her.

Q And you met her just when you were looking for a room? A Yes, sir.

Q What time of day was it? A In the morning.

Q Weren't you working? A ~~No~~, sir, I worked at night.

Q What time in the morning? A A quarter to seven.

Q A quarter to seven? A Yes, sir.

Q You were looking for rooms at a quarter to seven?

A No, I came out and looked around before I went to sleep, if I can find some room around there.

Q What were you doing over at 53rd Street and Park Avenue when you worked at Eighth Avenue and Fortieth Street? taking a walk before you went to sleep? A Looking for a room.

Q Wasn't that just the time Barbara Wright went to work? A Yes, sir.

Q And you just happened to meet her there? A Yes sir.

Q Didn't you go there purposely to meet her, because you knew she went to work at that time? A No, sir.

Q What talk did you have with her then? A I asked

CASE #2110



her if she have any letters.

Q Anything else? A No, sir.

Q Weren't you in love with her? A No, sir, I never told her anything about it.

Q Didn't you love her then? A Certainly.

Q Didn't you want to go back and live with her?

A I never talked about it at that time.

Q Didn't you want to go back to live with her?

A I never talked about it.

Q Didn't you want to go back to live with her?

A Yes, sir.

Q Didn't you say anything about it? A Not at that time.

Q Why not? A She has to go to work, and I had no time for conversation. I only asked her if she had any letters, and she said, "don't bother me".

Q Was that the first time you had been there?

A Yes, sir.

Q Was that the time she told you you were a stranger to her? A No, that was another time.

Q When did you next see her after that? A When I was living on the street.

Q Didn't see her until you were living there?

A No, sir.

Q How many times did you see her altogether?

CASE #2110



A Two or three times.

Q Only two or three times? A Yes, sir.

Q How many times did the police officer chase you away from there? A Once, I remember.

Q What was that for? A Because I was talking to her nice, and he called her over, or she called the policeman over, and I was on the other side of the street, and he called me back, and he says, "do you annoy this woman". I said, "no, sir, I just talked to her", and he shoved me and said, "go ahead and beat it".

Q That was before you were sent to the workhouse, wasn't it? A That was after.

Q Well, how soon after? A I couldn't exactly say.

Q Isn't it a fact that Barbara Wright had called policemen twice on one day for you? A No, sir, not that I remember.

Q Weren't you up there, talking to her, at eleven o'clock one morning, and didn't the police officer chase you away, and didn't you run into the alleyway behind that big apartment house, and go through there? A Not that I remember.

Q Not that you remember? A No, sir.

Q Wouldn't you remember a thing like that if it happened? A I couldn't remember that. I remember--

Q Wouldn't you remember that if it happened?

CASE #2110



A If it happened?

Q If a police officer chased you away from there, wouldn't you remember it? A I only remember he chased me away, and I walked to Lexington Avenue.

Q Was that eleven o'clock in the morning?

A I couldn't tell you the time.

Q And didn't you come back at three o'clock that afternoon, and didn't she have to get the policeman again?

A I don't remember that.

Q Didn't you ever go there at three o'clock to see Barbara Wright? A I don't think so.

Q Don't you know? A No, sir.

Q This was the woman you were in love with? A Yes.

Q Didn't you go twice in one day to see her?

A No, sir, not that I remember.

Q You don't remember? That is the best answer you can give, is it? A Yes, sir.

Q Well, now, do you remember the time that she had to call a police officer to put you out of the house, after you came back from the workhouse, when you were in her house, on the stairs, and a police officer had to go in and tell you to go away and leave that woman alone? A Never been up stairs after I came out of the workhouse.

Q Did you ever go back there at all into the house after you left Mrs. Wright's home? A No, sir.

CASE #2110



Q Did you? A No, sir.

Q Never at all? A Never at all, in that house.

Q You were never in 118? A I have never been in 118, the house; in front of the door, but not in the house, not after my arrest.

Q Don't you remember a police officer, just about a week before this day, when you say you got twenty-five cents and a package of cigarettes, your going into 118 and Mrs. Wright going out to get a police officer, and bringing him back, and he found you on the stairs, coming down stairs?

A Exactly, sir.

Q That was a week before? A About, yes, sir.

Q What were you doing in there then? A I make a mistake, going in there, and I have to go next door.

Q You didn't live next door? A Two doors away.

Q What were you doing in there that led Mrs. Wright to send for a police officer for you? A Nothing that I remember I done. I remember the policeman coming behind me and said "don't you live here?" I said, "I don't know." I was having a drink, and there were a few kids on the street, and the officer asked the kids if the man is living here, and the kids said yes, and he sent me up there.

Q Then you went to 114, where you belonged? A Yes.

Q What were you doing in 118 that day, when you did not live there? A Just came up the steps, if I remember.

CASE #2110



Q Nothing to lead the janitor to send for a police officer to put you out, was there? A I think she called a policeman.

Q What did you do that led her to call a police officer? A I didn't do anything at all.

Q On the afternoon of the day before you got this twenty-five cents and a package of cigarettes, where were you?

A The day before?

Q Yes. A I guess home in my room, I think.

Q 114? A 114.

Q Do you remember being up there on that street, 53rd street, that afternoon? A Maybe I was; I can't remember, sir.

Q You can't remember? A No, sir.

Q What is the matter with your memory? A Well, maybe I was not working at that time.

Q Did you kill Barbara Wright? A No, sir.

Q Are you sure about that? A Sure of it.

Q And do you think you don't remember? A I said I am sure of it.

Q What were you doing in 53rd Street that afternoon before, on the north side of the street, in front of the apartment house? A A day before?

Q Yes. A I don't remember that.

Q You don't remember? A Maybe getting a little

CASE #2110



fresh air, sitting in the park.

Q Louder? A Sometimes I go out and sit down in the park, or walk in the street.

Q You don't live on the north side of the street in front of that apartment house, on the north side? A The next block, in Park Avenue.

Q What were you doing out there on the street, cursing and swearing, that afternoon? A I don't remember cursing and swearing, sir, excuse me.

MR. MOORE: I object to that, on the ground he is assuming something not in evidence.

THE COURT: Objection sustained.

MR. EDWARDS: Does your Honor recollect one of the witnesses says he saw him there, doing that thing that afternoon, and a motion was made to strike it out, and your Honor denied the motion, and it is still in the record? That is the foundation for this question.

THE COURT: You may ask him if he was, or not.

Q Were you on the north side of 53rd Street between Park and Lexington Avenues on the afternoon of the day before?

A That might be possible.

Q No, but were you there? A Yes, sir.

Q What were you doing there? A Sitting down in the park, smoking a cigarette and taking a walk.

Q There is no park on the north side of 53rd Street

CASE #2110



between Park and Lexington Avenues? A I mean Park Avenue.

Q I asked you if you were on the north side of 53rd street between Park and Lexington Avenues the afternoon before?

A No, sir, I have been in Park Avenue.

Q Didn't you sit here and hear Weinstein say he saw you there? A No, sir.

MR. MOORE: I object to that, if the Court please, on the ground it is improper.

THE COURT: Objection overruled. He may answer that.

Q Didn't you hear Mr. Weinstein say he saw you there?

A No, sir.

Q Didn't you hear him say that he saw you there?

A No, sir, I didn't hear him.

Q And didn't you hear Philip Terrano say he saw you there? A I never heard it.

MR. MOORE: I make the same objection.

THE COURT: The objection is overruled.

MR. MOORE: I submit, the fact that they testified to something, whether he heard it or not, is immaterial. The only question is what we can testify to here.

THE COURT: The objection is overruled.

MR. MOORE: I take an exception.

Q So, you never went back to Barbara Wright's rooms after you left her house? A No, sir.

Q How long had you known Barbara? A Nearly one year.

CASE #2110



Q And where did you first meet her? A Mr. Mark's boarding house, 155 West 75th Street.

Q And did you fall in love with her? A Yes, we were close friends.

Q What? A We were good friends together.

Q And did you sleep with her there? A Not sleep. I was in the room, but not sleeping.

Q You had intercourse with her, didn't you?

MR. MOORE: If the Court please, can't we just as well avoid that? The letter speaks for that. The woman is dead. It don't seem to me that it is going to help matters out.

THE COURT: I think, of course, the prosecution is entitled to present it to this witness.

MR. MOORE: And I think the fact is pretty plain before the Court and jury.

THE COURT: Perhaps it is, but perhaps it is not quite satisfactory in the mind of the public prosecutor.

MR. MOORE: Very well.

Q When you left there, where did you go to live with her? A Live with her?

Q Yes. A Right after we left Mrs. Mark's house?

Q Yes. A I started to work in College Point.

Q I didn't ask you that. Where did you live with Barbara Wright? A Only slept one or two nights, corner

CASE #2110



of Eighth Street and Sixth Avenue.

Q And then how long did you do that? A Two nights, I believe, that is all.

Q And then what did you do? A I come over to College Point and started to work there.

Q Did you see her when you were working there at all?

A Yes, I come back to the city.

Q You would come back and see her all the while?

A I saw her where she works.

Q And how long did that go on? A Only two or three times.

Q About what time of the year was that? A That must be February or March.

Q And then what did you do next, you and Barbara, anything? A Then I come back.

Q Where did you next live together? A The same place.

Q What? A The same place, Sixth Avenue; not live; just for a night.

Q How long did you go on that way? A A very short time.

Q Well, how long? A Three or four times, that is all.

Q Well, when did you go to live together again?

A I worked for the Campus, and I had my room in 810 Columbus Avenue.

Q 810? A Yes sir.

CASE #2110



Q Did she used to come to your room? A Yes, sir.

Q How long did that go on? A Well, I worked for the Campus restaurant.

Q Where was that? A 104th Street and Columbus Avenue.

Q How long did that go on? A While I worked there.

Q How long was that? A About a month and a half or two months I worked there.

Q And then what did you do? A Then I worked in the Park Circle. I worked in 46th Street, between 46th and 47th.

Q Where did you see Barbara in those days? A In the same Hotel.

Q When was it that you decided to take an apartment?

A When we started?

Q When did she decide to take an apartment?

A When I was working by Mark's house.

Q But when did she take the apartment? A She took the apartment about the middle of August.

Q And you went there to live with her? A I was there two days before she came.

Q And then her son came? A After two days; first she came a couple of days, and after the son came.

Q Did you like the son? A Yes, he was a nice boy.

Q Did he make trouble between you and Barbara?

CASE #2110



A Not very much.

Q What was the jealousy that came up when the son came in? A She was standing with me.

Q What? A Mrs. Wright was standing with me, and she give me herhand, and at the same time her son came over, and he pushed her away, and she said, "George, don't be jealous".

Q Did that make you jealous? A No, sir.

Q Didn't it make you jealous at all? A No sir.

Q Didn't it make you angry? A No, sir.

Q Then what happened next? A Nothing; stayed there.

Q Well, how did you come to leave there, then, if nothing happened? A Oh, well, that was a couple of days after, I was drinking, I was drinking.

Q Any one else been drinking with you? A Mrs. Wright.

Q Any one else? A George, but he didn't drink beer; milk or sarsaparilla he drinks.

Q And what happened that time? A Nothing.

Q What was the trouble then? A You mean when the trouble started? I was drunk one time, and she says, "you have to get out".

Q What did you do when you were drunk? A A friend of hers came up, and I asked her who that was, and she said, "that is none of your business".

Q What was his name? A I don't know. She talked of Fred.

CASE #2110



Q Didn't he give his name? A She was talking about Fred and Lorenz.

Q What was this fellow's name? A I guess the boy will know.

Q I ask you if you know. Do you know? A I don't know.

Q Did you get jealous about that? A No, sir.

Q Did you get angry about that? A No, I simply asked her who it was.

Q Why did she put you out for that? A I guess she told me before that she had a letter from a friend of hers, and said don't put me out of the house, she will tell her sister. Her friend wrote her a letter and told her not to put me out of the house; if she did she would tell her sister.

Q Did you have a fight about that? A No, sir.

Q Did you get angry? A No, sir.

Q She told you to go out, did she? A Yes, sir.

Q What did you do then? A I got out one day after that.

Q You went the next day? A Yes, sir.

Q She had to send for a police officer to put you out?

A Yes, sir.

Q Why didn't you go when she told you to go? A I had my clothes there.

Q She didn't prevent you taking your clothes, did she?

CASE #2110



A No, they were inside.

+ Q You took them out? A No, not right away. I came back for them.

Q What did you do that made her send for an officer to put you out? A I don't know, sir.

Q You were there? A Yes, sir.

Q What did you do that led Mrs. Wright to go and tell the police officer to put you out of the room? A I couldn't tell you, sir; I don't know.

Q You don't know what you did? A No, sir.

Q What is the matter? Don't you remember?

A Just to get my clothes, and when the policeman came up she opened the door and give me my clothes, and I walked up to the corner with the policeman.

Q Why did she send for a policeman to put you out?

A I don't know.

Q What had you done? A Anything at all that I remember.

Q Weren't you jealous? A No, sir.

Q Weren't you angry? A No, sir.

Q Didn't you want to stay? A No, sir, not at that moment.

Q You were ready and willing to go? A Yes sir.

Q And you did go? A After I got my clothes.

Q And afterwards she had you arrested for nothing that

CASE #2110



you had done at all? You didn't do a thing the day she had you arrested? A Never at any time with her, except with the officer.

Q You didn't do a thing? A No, sir.

Q She just had you arrested when you were walking on Park Avenue, doing nothing? A I was at the corner of 53rd Street, and Mrs. Wright and her son came up from Park Avenue, and when she seen me she turned around, and I walked a few steps, and walked back, and she followed me up and had me arrested; that is all I remember.

Q Didn't Mrs. Wright say to you that she had no use for you any more; she preferred a man named Lorenz? A What is that?

Q Didn't Barbara say to you she had no more use for you; she preferred a man named Lorenz? A Not that.

Q Did she ever say that to you? A One time she told me "I have nothing to do with you; you are a stranger to me", something like that.

Q Didn't that make you angry? A No.

Q Didn't it make you jealous? A No.

Q Weren't you always begging her to give you another chance? A Yes, sir, once I have asked her.

Q When did you ask her that? A Park Avenue-- on Fifth Avenue.

Q On Fifth Avenue? A Yes, sir.

CASE #2110



Q When was that? A Some day; I don't remember.

Q Was that before, or after, you went to the workhouse?

A That was after the workhouse.

Q After you went to the workhouse? A Yes sir.

Q Was that the only time you asked her to give you another chance? A That is the only time.

Q But you were in love with her? A Yes sir.

Q And you wanted to get back and live with her?

A I have asked her, yes.

Q But you wanted to go back and live with her, didn't you? A Yes, sir.

Q Didn't you ever ask her that but once? A Only once.

Q Only once? A Yes, sir.

Q You asked her that in this letter you wrote her, didn't you? A Maybe I did in the letter what I wrote.

Q You wrote her several letters, didn't you? A I wrote her a couple.

Q How many? A Two, I believe.

Q Wasn't it three or four? A No, sir.

Q Didn't you ask her in every letter to give you another chance? A No, sir.

Q What did you write her for? A No, sir.

Q Why did you write her? A I wrote her just to make up and talk to her, that she don't be mad with me.

Q To make up? A To make up, and that she will not be

CASE #2110



mad with me.

Q Why did you want to make up if you were not angry with her, or jealous of her? A Because she had me arrested; she was sore, and I didn't have anything against her. I never had any trouble with her before that time.

Q You were not living with her any more? A No sir.

Q And you did not want to, did you? A What time?

Q You didn't want to go back and live with her?

A She put me out.

Q You didn't want to go back, did you? A Yes sir, I did.

Q You did? A Yes, sir.

Q Did you ever ask her if she would take you back?

A Only once.

Q Only once? A Only once.

Q It was nearly two months, it was more than two months after you left her house before she was killed. Did you only ask her once in those two months? A Once in the two months?

Q Yes. A I never have seen her in that time.

Q Seen what? A Mrs. Wright, after two months.

Q I say, there were two months between the time you stopped living with her and the time that she was killed?

A Yes, sir.

Q Did you only ask her once to let you come back in

CASE #2110



that two months? A Once, on the street.

Q That is all? A That is all.

Q And you never said anything about it in your letters?

A I don't know, sir.

Q Now, this letter that your counsel showed you, people's exhibits 3 and 4, that is in your handwriting, isn't it? A It is in my handwriting.

Q And you wrote that to her? A Yes, sir.

Q And what did you write that for? A She was a friend of mine, and I didn't want her to be mad with me.

MR. MOORE: Don't the letter speak for itself? what it was written for?

THE COURT: If that is an objection, I will have to overrule it, Mr. Moore. When was that letter sent? Is it dated?

MR. EDWARDS: 26th of October, 1914.

Q What did you write this letter for? A Well, I liked Mrs. Wright, and I wanted she wouldn't be mad with me, and if she sees me on the street that she will talk to me, just to be a friend of mine, that is all.

Q And you wrote that to her two days before she died, didn't you? A I don't know, sir, when it is written.

Q It is dated October 26th, 1914? A Yes, sir, I wrote this letter.

Q And you wrote it on that day? A On that day, yes.

CASE #2110



Q What did you mean in that letter when you said "I can't help to write you a few lines and let you know that I have changed my mind, and don't left the city, because I am sure that I be back soon"? A My meaning was that in my letter before I was going out of the city.

Q You told her in your last letter you were going to leave the city? A The letter before this.

Q You told her you were going away? A Yes, sir.

Q And you were writing her this time to tell her you had changed your mind? A Yes, sir.

Q Did you tell her why you were going away? A No sir.

Q Didn't you tell her you were going away because she would have nothing to do with you? A No, sir.

Q This was after she told you she didn't want anything more to do with you? A Yes, sir.

Q Why did you write her to tell her you had changed your mind? A I Had changed my mind about going out of the City.

Q Why did you write that to her? A That she don't be mad with me, and be a friend.

Q Then, you go on and tell her that you have only worked one day the last week, and you are not feeling good? A Yes.

Q What were you feeling bad about? A I had a heavy cold at that time.

Q What? A I had a heavy cold at that time in my head.

CASE #2110



Q And then you go on and say this, "And you know for what, Barbara; I am thinking of you day and night". Was that because of your heavy cold, or was that why you were not working?

A No, that wasn't nothing about the cold.

Q That was why you were not working, because you were thinking of Barbara day and night? A No.

Q Why did you tell her that in the letter?

A Well, I was thinking of the woman.

Q What? A I was thinking of the woman.

Q All the time? A Not all the time.

Q Weren't you thinking of her day and night? A No, not day and night.

Q And weren't you jealous of her? A No.

Q And weren't you angry because she wouldn't let you come back? A No, sir, not at all.

Q And then what did you mean by this, when you said in this letter, "I wish that I never meet you in my life"? Why did you say that? A Well, that I liked this woman, and being around with her, and loving her, I liked this woman.

Q Well, why did you go all over in this letter your life with her at Mark's, and then say "I wish I had never met you in my life"? A Well, because what time that I meet her she always was nice and good to me, and we had good times together, why in a few days she turned against me.

Q Weren't you feeling very badly about that? A Not

CASE #2110



so very badly, but at the same time I was feeling it all right.

Q Wasn't that why you said you wished you had never met her in your life, because she had made you so unhappy?

A Yes, sir.

Q And you were feeling pretty unhappy when you wrote this letter? A Yes, sir.

Q And you were pretty angry at her? A Not angry at all. I was sorry.

Q How would you have been, as you say here, any better off? You say, "I would be better off than now". How would you have been any better off if you had never met her?

A I meant to say I wouldn't worry about it, about loving her.

Q Were you worrying about it? A Not worry, but I liked her.

Q Was it worrying you? A It worried me, but at the same time I--

Q Isn't it a fact it was worrying you a great deal, because she would not have anything more to do with you?

A No, sir.

Q What? A No, sir.

Q Now, do you remember writing this to her: "Then you told me you go get a flat for your own, and I could stay with you, and so you did. You let me go all over your rooms. We have a lot of good times the first few weeks, and then

CASE #2110



jealousy came in your son"? What did you mean by that?

A Well, that night we were washing the clothes; she gave me her hand, and he took it away, and Mrs. Wright said, "Don't be jealous of me, George".

Q But you were not speaking of George's jealousy?  
Weren't you speaking of your jealousy? A No, sir.

Q You never were jealous, were you? A No, sir.

Q And then what did you mean by this, "And so you make hooks on the doors, to mean to say to here and no further"?

A Well, a hook on the door, so you can't go through the house.

Q That is what Mrs. Wright did? A The son did that.

Q And her son did it? A Yes, sir.

Q Didn't that make you angry? A No, it didn't make me angry.

Q Why did you write about it in this letter, so long afterwards? A Just to explain for why she did that.

Q She knew she did it? A Yes, sir.

Q And she told you she didn't want anything more to do with you, hadn't she? Hadn't she told you that? A I never have heard her say the words "have nothing to do with you". She told me to be a stranger to her, or something like that.

Q Then, why did you write her all this that she knew?

A Just to explain it.

Q Did you start to drink because she didn't treat you as well? A Always when we drink we drink together in the house.

CASE #2110



Q What did you mean by this, then, "Then I see coming that I had to move. You was treating me no more like you did the first weeks. Then I started to drink a little, and so trouble came in." What did you mean by that?

A Well, there was something wrong; I don't know what it was; we had a couple of drinks there.

Q You did start to drinking? A Yes, sir.

Q Why did you start drinking? Because Barbara didn't treat you as well as she had been treating you? A Well, I couldn't tell you.

Q Wasn't that the reason? A Maybe it was.

Q Wouldn't you know whether it was, or not? Wasn't that the reason? A I was drinking; I don't know for exactly why; I was drinking.

Q And then you went on and said you were trying to do everything on the face of the earth for her, didn't you?

A Yes, sir.

Q And you thought she ought to treat you better when you had done so much for her, didn't you? A I did everything what I could to her.

Q Didn't you think she ought to treat you better after what you had done for her? A I don't say anything about that.

Q Weren't you angry because she didn't? A No, sir, I had no reason to be angry.

CASE #2110



Q And weren't you jealous because she did not?

A No, sir, she was always nice and good to me. I had any reason to be jealous.

Q "And now you told me the other day I was a stranger for you, and you not care for me. Barbara, for what you let me go so far with you?" A Why didn't she tell me that before, when we left Mark's house, that she didn't like me, or that I am a stranger, why didn't she tell me that before?

Q Weren't you jealous of her when you wrote that?

A No, sir.

Q Weren't you jealous of her? A No, sir.

Q Weren't you angry at her because she didn't treat you any better, after all you had done? A Never was angry at her.

Q Then, you say to her this, "I just looked over some letters, that you called me sweet heart, I was wondering that time if you meant that". Do you remember saying that to her?

A Yes, sir.

Q Were you wondering if she meant it when she wrote it? A Yes, sir.

Q Then, you were thinking about your love for ~~xx~~ her and her love for you, weren't you? A Yes, sir.

Q And you were pretty sore about it, weren't you?

A Not sore about it. That time she was nice, and called me sweet heart, and then told me to be a stranger.

CASE #2110



Q You were pretty unhappy? A Not unhappy; I was sore, but not unhappy.

Q Why did you write in this tone? Why did you say these things to her? A What is that, sir.

Q If you were not feeling badly about it, if you were not worrying about it, why did you write it?

MR. MOORE: I object to that. He does not say he was not feeling badly about it. He says he was sorry.

THE COURT: The objection is overruled.

(Question read by stenographer)

MR. MOORE: I don't think that the witness has said that he was not feeling badly. He admits that he was. The witness has repeatedly stated, I think, that he was sorry, and that is feeling badly.

THE COURT: You may have an answer to the question.

Q (Question read by stenographer, as follows:- "If you were not feeling badly about it, if you were not worrying about it, why did you write it?")? A Well, I write it to make her understand and be a friend; that is all I have wrote this letter for.

Q Then, you wanted her to be a friend with you again, didn't you? A Certainly, if she meets me on the street, that she would talk, the same as before, that she wouldn't pass me.

Q That is what you had been trying for? A Yes sir.

CASE #2110



Q And that is what you had been trying for ever since you left the house? A Yes, sir, that was in my letter.

Q And when you spoke to her, didn't you try to do the same thing? A The same day I talked?

Q Didn't you try to get her to be friends with you when you talked to her? A Yes, sir, friends to her.

Q Did you say this to her in this letter, "And now you say for what I don't forget you. You think that is so easy for me. Every man is not the same." You remember saying that, don't you? A Yes, sir.

Q You meant by that that you were not like some men, you could not forget quickly? A I simply like this woman.

Q When you say, "you think that is so easy for me, that is to forget; every man is not the same", you meant that you could not forget her? A Some people is over it in two days and don't care anything about it.

Q And you meant her to understand that you could not forget her? A That I was thinking many times of her.

Q You could not forget her? A Yes, sir, I could not forget her.

Q You have not forgotten her yet? A No, sir.

Q You are still in love with her? A I like this woman.

Q You are still in love with her, aren't you?

A Love? I don't understand just what you mean by love.

CASE #2110



Q Did you say "I have tried to forget you, but I can't. I hear your voice when I go". Did you say that to her?

A Yes, sir.

Q Did you mean that, that you could not forget her, and that you heard her voice when you went about your work?

A Yes, sir.

MR. MOORE: If the Court please, I don't that the jurors are getting any of the answers.

THE COURT: Well, the witness knows. Speak out loud, speak out.

THE WITNESS: All right, sir.

Q What did you mean by this, when you said "You never have seen me that time, but still I was there"? A I was behind the door.

Q When was that? A That was the time I was living in the house.

Q Hiding behind the door? A Yes, sir.

Q Was that after you had left the house? A The time I lived in the house.

Q Wasn't it after you had left the house, and you were back there, hiding and holding the door? A The time I live in the house.

Q Which house? A Mrs. Wright's house.

Q What were you hiding behind the door for then?

A Well, she was with her son; she was in the bed with her son.

CASE #2110



Q What do you mean by that? A She was in bed with her son at that time.

Q When was that? A In the night, at the time I was in the house.

Q What were you doing behind the door? A I was in the kitchen, getting a drink of water.

Q What? A I just had a drink of water at the time; I was in the kitchen.

Q What did you mean by this, "Barbara, I could tell you something else, and you will be surprised, but let me stop this. I will keep this for me".? A Well, if you want to press me to tell the truth, I am willing to tell it, but I don't know if I am allowed to bring it out in open court.

Q Well, what else was it that you meant that you could tell Barbara that would surprise her? A That is all, sir.

Q What? A That is all.

Q What? A What is that?

Q When you say this, "Barbara, I could tell you something else, and you will be surprised", what did you mean by that? A That same thing what I just told you, sir.

Q What? You have not told us anything yet, have you?  
A I meet her in bed with her son in the room.

Q When was that? A About eleven or twelve o'clock at night.

Q That was while you were living there? A Yes sir.

CASE #2110



Q Then, you say this: "Now, don't think that I write this all out with a bad meaning, but just Barbara so to make you understand that I am not a stranger to you, so you have told me the other day"; what did you mean by that? A Well, that I have not been a stranger to her; that I know her for a year, and have been always nice and happy with her.

Q What did you mean by this: "Now, don't think that I write this all out with a bad meaning"? A That she must not think I be mad with her.

Q You are trying to put a pretty bad meaning on it now? A What is that?

Q You are trying to make the jury believe that this is a pretty bad meaning you are putting on it now?

A I don't understand.

Q Aren't you trying to give this a bad turn now?

A How is that?

Q Aren't you trying to tell us bad things about Barbara right now that you meant in this letter? A Yes, sir.

Q What did you mean when you said to Barbara, "Don't think I write this out with a bad meaning"? A Well, not telling this all around a hotel, or anything like that.

Q That was the idea? A Yes, sir.

Q Then you go on and say "I wish I could forget you, but you have let me go too far with you". What made you write that if you were not angry or jealous? A She could have

CASE #2110



stopped me off, and not let me go that far with her.

Q Why did you write this to her, that you wished that you could forget her, but she let you go too far?

A Well, I told that in the letter, why don't you told me that before?

Q Weren't you angry about it? A No, sir.

Q Weren't you jealous about it? A No, sir.

Q Why did you write this letter if you did not care?

A I simply wrote the letter to make up and be a friend with her; if she didn't have anything to do with me, still be a friend.

Q Why did you want to be a friend of hers for if you did not care?

MR. MOORE: Objected to, on the ground it is assuming something not in evidence. This witness has repeatedly said he did care.

THE COURT: The objection is overruled.

MR. MOORE: I take an exception.

Q Can you tell me that? Then you say, "I remember what you told me from Fred, John Weber, Spain fellow, Lorenz, and maybe some more that I don't know, and now I see you make up with another man that morning what work in your same place". What did you mean by that? A Always talking about the man Lorenz, what she worked before with, that she have good times with him, she was talking all the time about that.

CASE #2110



Q Did you like that? A I had to like it or not, what could I do?

Q Did you like it? A Well, I could do nothing on it.

Q Didn't it make you angry? A No, sir.

Q Didn't it make you jealous? A No, sir, we just talk and drink together the same time she told me about the good times she had.

Q What did you mean, right after that, "He soon will be another what get crazy of you"? A It might be that another man there that I saw her with the other day, that she started to get another man.

Q You were not angry about that? A No, sir, not angry.

Q You were not jealous about it? Were you jealous about it? A No, sir.

Q Did you care, one way or the other? A No sir.

Q Then, why did you write this, right next, "but remember that some one will not stand for this"? A Well, some of the fellows what come there--

Q What? A Might be some of the fellows that come there what she knows make trouble.

Q Didn't you mean that you would not stand for it? A No, sir.

Q Who did you mean would not stand for it? A Just Fred and Lorenz the other names there.

CASE #2110



Q Who is Lorenz? A I don't know; I never heard his other name; and her son.

Q "But remember that some one will not stand for this". Did you have anybody in mind? A What is in the letter, the names.

Q Didn't you mean that you would not stand for it?

A No, sir.

Q Never thought of that, did you? A No, sir.

Q Then, did you write this: "There happen lots things than love affairs in this world." Shall not in may to fool with things like this, believe me kid". Did you write that?

A Yes, sir.

Q What did you mean by that? A Well, the way she go on, and the fellows come and see her, and so and so.

Q Now, this reads this way, "but remember that someone will not stand for this. Then happen lots things than love affairs in this world. Shall not in may to fool with things like this, believe me kid". You wrote that? A Yes sir.

Q Didn't you mean by that that you would not stand for this? A No, sir.

Q And that strange things sometimes happen in love affairs, and it might happen in yours? A I meant the fellows whose names are there.

Q And didn't you say, "Well, Barbara, I hope that you will look over this once more. In the first place, don't

CASE #2110



pass me or you ever see me before, if you meet me on the street". Do you remember that? A Yes, sir.

Q It made you a little mad for her to pass you on the street and not recognize you? A No, she could speak nicely, and say good morning and good evening, like I said to her; I always spoke that way to her.

Q Didn't it make you pretty angry? A No, sir.

Q Why did you ask her to look this thing over once more? A That she was willing to talk to me when she saw me on the street. If ~~I~~ <sup>she</sup> meet me on the street that she will talk to me and treat me the same as I do.

Q When you said you hoped she would look this over once more, you meant all your love affairs, with her, didn't you?

A I meant to look over the letter after we meet on the street, that she don't be mad or sore with me.

Q You were not mad or sore at her, were you?

A No, sir.

Q Then, you go on and say, "promise me that I can see you and George sometimes, ~~about once~~ once in a week, or every two weeks, and then I will get over it nicely, but not like this." What did you mean by that? A I meant if she talks to me and I get nicely over it.

Q But you wanted to see her once or twice a week?

A If she don't mean this, I would come up and see her and talk with her and the son, yes, sir.

CASE #2110



Q Up to this time she would not let you see her at all?

A I never see her.

Q Then, you go on and say, "You know, Barbara, what love is. You have expressed enough to know what that is to a man; if you have any feeling for me, or don't care for me; I am sorry to know first now, but don't put me off like this". You wrote that, didn't you? A Yes, sir.

Q You wanted her to take you back, didn't you?

A To be good and don't be mad with me, that is what I meant, be friends.

Q Why did you speak of love there, and tell her she knew what love was to a man, unless you were feeling jealous?

A I don't know what you mean.

Q Why did you speak of love, "You know, Barbara, what love is. You have expressed enough to know what that is to a man. If you have any feeling for me"?

A Well, that is a love affair, how things go in this world. I don't know exactly to explain it, how you make that love.

Q Weren't you feeling pretty anxious to have her back?

A No, sir, I never be angry with her.

Q And then do you remember saying, "Barbara, I ask you to kindly please forget all this and let us make any more troubles if we have already, be good and think this over. Give me another chance, only to talk to you, and we will all get over this easy". Did you write that? A Yes, sir.

CASE #2110



Q What did you want another chance for? A To talk to her and be nice to me, if we meet on the street, and call on her two or three times a week, or any time she felt like it, only be friends.

Q And you were very anxious for that?

A Not at all.

Q Why did you write this letter? A Because I liked this woman very much, and don't be good with me, I want to be a friend with her, that is why I wrote the letter.

MR. MOORE I think the witness means "angry", by "anxious".

Q Do you know what the word "anxious" means? A No, sir, I don't.

Q You know "angry" means? A Yes, sir.

Q They are not the same? A No, sir.

Q "Anxious" means "eager". You wanted to have another chance, didn't you; you wanted her to give you another chance? A I asked for it.

Q And you wanted it pretty badly, didn't you?

A No, I simply asked for it.

Q What did you do after you sent this letter?

A What is that?

Q What did you do after you sent that letter?

A I sent the letter, that is all.

Q What did you do afterwards? A How do you mean, what I do?

CASE #2110



Q Did you do anything after you sent it? A No sir.

Q Did you send it the day you wrote it? A I think so.

Q And did you go up there to see her and get your answer when you did not get one by mail? A No, the only thing I got an answer when I see her on the street.

Q And you got no answer to this through the mail?

A No, sir.

Q But you were anxious for an answer? A No, sir.

Q Weren't you looking for an answer? A No, sir.

Q Didn't you want an answer? A Yes, if I ~~get~~ meet her on the street, yes, sir.

Q Did you ever meet her on the street after you wrote this letter? A Not that I remember.

Q Did you ever go to get your answer from her?

A Not that I remember.

Q Why not? A Well, I don't know.

BY THE COURT:

Q Did you post that letter? A No, sir.

BY MR. EDWARDS:

Q Didn't you put it in the mail box? A No, I don't think I did.

Q Who did? A I don't think I did.

Q Who did? A Nobody put it in. I believe I handed it ~~on~~ over as I saw her come out of the door with her son.

Q You gave it to her? A Yes, sir, I think I did.

CASE #2110



Q What date did you give it to her? A I don't remember the date.

Q Was it the same day you wrote it? A Maybe a day after.

Q Then did you go back to get your answer?

A Yes, sir.

BY THE COURT:

Q Is that your best recollection, that it was the day after you wrote it that you delivered it? A Yes sir.

BY MR. EDWARDS: Q That would be the day before she died. Did you ever get an answer? A No.

Q You delivered this letter to her, gave it to her in her hand? A Yes, sir.

Q Didn't you go back to get the answer? A No sir.

Q Didn't you go looking for the answer? A No sir.

Q Not at all? A Maybe I meet her on the street.

Q The day after you gave her that letter you went away from that neighborhood, and never went back, did you?

A What is that?

Q The day after you gave her this letter you went a way from 53rd street, and you never went back, did you? A Yes sir, I be back a few times.

Q Where did you go when you went back? A 53rd Street

Q Whereabouts? A In 53rd street. Right after that?

CASE #2110



Q I mean, the next day after this, the day you got fifty cents or twenty-five cents and a package of cigarettes from Jacobson, you never went back to that neighborhood again, did you? A No, sir.

Q Never? A Never? Certainly, after. Not the day after. Some time after.

Q For a long time after? A About two or three weeks, maybe.

Q Why didn't you go back to get an answer to this letter? A To get an answer for the letter?

Q Yes. A I never went back for an answer for the letter.

Q Why didn't you? A Because I could meet her on the street.

Q Didn't you want an answer to it? A No, because they told me she never would write me, so what is the use of looking for an answer, when she wouldn't write to me? She told me that once before.

Q Did you ever go back to Mrs. Anderson for your clothes? A No, sir.

Q Did you ever get them? A No, sir.

Q Don't you know your clothes are in storage with her furniture now, and you never came back for them?

A What is that?

Q Don't you know your clothes are in storage with Mrs.

CASE #2110



Anderson's furniture now, and you never went back to get them?

A I be back, and I ring the bell, and I have any answers.

Q But you never got them? A Never got them.

Q And that very day where did you go to live? Where did you sleep the night of the day after you gave Barbara Wright this letter?—A Down town.

Q Whereabouts down town? A I couldn't say, because there are so many lodging houses there.

Q Can't you tell us where it was? A Not exactly. Near Hudson.

Q And under what name? A Hendricks, John Hendricks.

Q Under what name? A John Hendricks.

Q Why did you change your name from that time on?

A What is that, sir?

Q Why did you change your name from that day on?

A From what day on?

Q From the day Barbara Wright died? A I never changed my name.

Q What name did you work under at Wagner's? A John Hendricks.

Q After Babara's death? A Six days afterwards?

Q The 3rd of November? A Peter Smith.

Q Why? A Because I had been working before.

Q Was that the only reason? A Yes, sir.

Q When you went over to the candy factory in Brooklyn,

CASE #2110



X  
why didn't you use Peter Hendrick's name? You never worked there before? A Well, I came there, and as soon as I came to the factory the foreman's name was Smith.

Q But that didn't prevent you going there as Hendricks, the name you had been under ever since you came to this country?

A I never think of that at that moment.

Q You had lived here three years? A Yes, sir.

Q And that was the first name you ever used in this country? A Yes, sir.

Q You stopped using von den Corput because it was too long? A Yes, sir.

Q What name did you have in South Africa? A My right name.

Q What is that? A Petrius Cornelius von den Corput.

Q And there are a great many Dutch down there?

A Yes, sir.

Q When you got to America you changed your name to Hendricks? A Yes, sir.

Q Why did you change it to Hendricks? A Because working on the railroad they could not pronounce the name; there was always a lot of mistakes; not one wrote it right.

Q Well, when you went over to the factory in Brooklyn, what name did you take? A Harry Kuypera.

Q This is one of your pay envelopes, people's exhibit No. 8, (handing exhibit to witness)? A Yes, sir.

CASE #2110



Q Why did you take that name? A The foreman's name was Smith, and there was two in the same branch where I was working, and at the same table was another Smith.

Q But your name was not Smith; you had been Hendricks for three years. Why didn't you call yourself Hendricks?

A My name was Smith.

Q That was not your real name? A No, sir.

Q You only changed it for Wagner, for fear he would not keep you? A I changed it because there were so many Smiths there.

Q But why didn't you go back to Hendricks? A I never thought; I just thought of Corput, anything that came into my head I would give.

Q You were a little afraid somebody would find you?

A Never, not a bit; I was never afraid of any one finding me.

MR. EDWARDS: I offer the pay envelope in evidence, now that he has identified it as his.

THE COURT: Any objection, Mr. Moore?

MR. MOORE: I haven't any, your Honor.

(Same received in evidence and marked people's exhibit No. 8, of this date)

BY THE FOREMAN OF THE JURY:

Q When you went back up to that place two or three weeks after her death, did you hear she was dead? A No sir.

CASE #2110



Q When did you first hear of that? A In headquarters.

BY MR. EDWARDS:

Q Didn't see anybody you knew up there at all, did you, in 53rd street, that time you went up and rang the bell of Anderson's place? A No, sir.

Q Didn't see anybody up there that you knew at all?

A No, sir; didn't take any notice.

Q You didn't go to Barbara Wright's house, did you?

A No, I just looked up.

Q Didn't ask any of the neighbors about her, did you?

A No, sir.

Q What time of night did you go there? A After my work, after eight o'clock.

Q Where were you working then -- over in Brooklyn?

A No, I was working for Mr. Wagner, 221 Bowery.

Q What time of night did you go there? A After eight o'clock, after I was through work.

Q Now, when you were working over here in the candy factory, you were still in love with Barbara, weren't you?

A I liked the woman, yes, sir.

Q You made this frame for her picture, and you framed it and kept it in your room? A Yes, sir.

Q How long had you had the picture? A Since I was working there in the candy factory.

Q You were still thinking of her? How long did you say you had the picture? A Since I was working in the candy

CASE #2110



factory.

Q Where did you get the picture itself? I don't mean the frame? A I had that a couple of years.

Q You had it a couple of years? A Yes, sir, and from the son the same, another one.

Q And you were still thinking of Barbara then?

A I did at the time I made the frame.

Q You were still in love with her? A Well, not to say I was in love with her to make the thing.

Q You were still thinking of her? A Yes, sir.

Q And yet you had not been back to ask for an answer to this letter you handed her the day before she died?

A No, sir.

Q How was she dressed the day you handed her that letter? A I don't know exactly.

Q Don't you remember how your sweetheart was dressed that morning? A No, I could not say.

Q What color clothes did she have on? A I couldn't tell. I didn't take notice.

Q Was it a black suit? A I don't think she wore a black suit.

Q Or a brown suit? A I don't think it was that color.

Q Or a blue suit? A A blue suit is the only kind.

Q Was that the suit (exhibiting clothing to witness)?

A Yes, sir, that is the suit.

Q When did you last see her wear it? A I don't

CASE #2110



remember. In the street.

Q When was it? A I couldn't say.

Q Wasn't it the afternoon of the 28th, when you stabbed her? A No, sir.

Q The afternoon up there on the corner of 53rd street and Park Avenue? A No, sir.

Q When you stopped and talked to her on the sidewalk?  
A No, sir.

Q And when you asked her to give you another chance?  
A No, sir.

Q And when she backed away into the street to get away from you and you followed her up? A No, sir.

Q And then you drew your knife and stabbed her three times? A No, sir. You are mistaken about that.

Q After she fell down the last time, you ran over and struck her in the neck? A Not me, sir.

Q Don't you remember it? A No, sir.

Q You forget it? A I did not forget it.

Q Will you forget it as long as you live? A I never did it.

MR. MOORE: I submit that is improper. He repeatedly said he did not do such a thing, and now he asks him if he would forget it.

THE COURT: Objection sustained.

Q You say you went to live down in a Bowery lodging house on that night of October 28th, the night you got that

CASE #2110



twenty-five cent piece and the box of cigarettes? A Yes.

Q Where was that lodging house? A I couldn't tell you exactly; near Hudson and Bowery; I don't know exactly.

Q How long did you live there? A One night.

Q Only one night? A Yes, sir.

Q Why didn't you stay there longer? A I had any money.

Q No money? A No, sir.

Q Where did you stay the next night? A I stayed in the Holy Night Mission, in the Bowery.

Q Can't you give me the name of that Bowery lodging house?

A No, I couldn't say.

Q Can't you give me its location? A It is near, what you call it, Hudson Street.

Q You don't know whether it is north, or south?

A No, I couldn't tell.

Q And you don't know the name of the man who ran it?

A No, sir.

Q Don't know the number on the Bowery? A Never took notice, no, sir.

MR. EDWARDS: That is all.

BY THE COURT:

Q Did you hand this letter to Barbara Wright in your hand? A Yes, sir.

Q You gave it to her where, on the street, or home?

A On the street.

CASE #2110



Q What did she do with it? A She took it.

Q And what did she do with the letter? A She took it in her hands.

Q Did she read it? A No, sir.

Q Or put it in her pocket? A No, sir.

Q What did she do with the letter? A She held it in her hand, and the son met her at that time; she took it off me, and I shook hands with George, and then she go up, I don't know where. I go to work, on Eighth Avenue.

Q What did she do with the letter? A I gave the letter in her hands, with her son.

RE DIRECT EXAMINATION BY MR. MOORE:

Q What clothes did you leave at the Anderson place?

A What is that?

Q What clothes did you have in that room at the Anderson house, 114? A A couple of shirts.

Q A couple of old shirts? A Yes, sir.

Q And that was all? A An empty trunk, fifty cents, or forty-nine cents I paid for it.

Q In this letter, I notice that you say, "What you told me from Fred, John Weber and Spain fellow, ~~xxxx~~ and Lorenz". Now, what had she told you about Fred? A Oh, that she had good times with Fred and Lorenz, being out together, in a saloon.

Q Had she told you the same about all of these men,

CASE #2110



that she had had good times with these men? A Yes sir.

Q That is, Fred, John and Weber? A Yes sir.

Q And Spain and Lorenz? A Yes, sir.

Q And that is what you referred to? A Yes sir.

Q Now, I would like to have you tell me if you can, what that is -- (exhibiting people's exhibits 3 and 4 to witness)-- "But remember some one will not"-- read that for us, will you? A "Will not stand for this game". I am a very poor writer.

Q It is not "times", is it? A "Things".

Q Now, when you were in the candy factory, you say you had the name of Kuypera? A Harry Kuypera.

Q And your full name is von den Corput? A Von den Corput.

Q And you left off the von den over there in your right name. The name you went by over there was Kuypera?

A Yes, sir.

Q And that is your right name, isn't it? A No, it is not my right name.

Q That is apart of your right name? A It sounds like it, the way you speak it out.

Q What is your full name, last name, tell the jury and clerk at this time? A Right name?

Q Yes. Petrus Cornelius von den Corput.

BY THE COURT:

Q did

Q When you see the Secretary to the Consul General

CASE #2110



of the Netherlands? A Some time in January, I think.

Q In January? A Yes.

Q Of this year? A I think of this year, yes sir.

Q You gave him the name of Smith? A Yes sir, I did.

Q Why did you do that? A Well, on account of the war, and I had some arguments in the place where I worked, and they called me a Dutchman, and he told me a Dutchman and a German is the same, so I said "There is a difference between Dutch and German; Dutch is Holland and Germany is Germany".

Q But why didn't you give him your right name?

A Because I worked under the name of Peter Smith, when that argument started.

THE COURT: Is there something else?

MR. MOORE: I think that is all.

RE CROSS EXAMINATION BY MR. EDWARDS:

Q Didn't you tell me on your cross examination that you worked in the dandy factory under the name of Kuypers?

A I don't know how they spell it.

Q Don't you know how to spell it when you gave them that name? A Yes, sir.

Q And isn't it written here exactly as you spelled it on your pay envelope? A No, sir, not quite.

Q Not quite? A No, sir, the "I" is not in there.

Q He used a "Y" instead of an "I"? A Yes, sir.

Q Is that it? A Yes, sir.

Q That is the difference, is it? A Yes sir.

CASE #2110



BY MR. MOORE:

Q However, it might be spelled, you gave the name Corput, did you not? A It sounds the same when you speak it out.

Q And you did sign a paper there? A (No answer)

Q Now, at the time that you gave Mrs. Wright this letter his Honor has, did she say anything to you then about not wanting any more to do with you and wanting to be strangers still? A No, she talked nice.

MR. MOORE: That is all.

THE COURT) (To the Jury) Gentlemen, don't discuss the case, nor ~~form her~~ express an opinion on it, but keep your minds open and free until it is submitted to you. Be in your places at two o'clock.

(The Court then accordingly took a recess until Two P. M)

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A F T E R R E C E S S.

MR. MOORE: The defendant rests, your Honor.

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R E B U T T A L T E S T I M O N Y.

F R E D E R I C K A. B A K E R, called as a witness on behalf of the people, in rebuttal, being first duly sworn, testifies as follows:-

DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live? A 238 West 14th Street.

CASE #2110



Q Mr. Baker, what is your profession? A I am the official stenographer to the Board of Coroners of this Borough.

Q And have been for how long? A Upwards of twenty years.

Q During all that time you have been taking stenographic notes of hearings? A I have, sir, steadily.

Q I show you what we call a coroner's inquest papers, and two sheets of notes on that in typewriting, and ask you if that is a transcript of your notes taken off that hearing?

A That is not a full transcript. This is an abstract, or summary.

Q That is the custom of the office, to annex to all those papers simply an abstract or summary? A It is.

Q Now, I show you another paper, and ask you if that is a full transcript of your notes taken of that hearing? (handing paper to witness)? A It is.

Q Have you your original notes with you, Mr. Baker? A I have.

Q Will you in your original notes turn to the testimony of the witness George Fenn? A That is on page what?

Q On page 6 of this transcript it begins? A I have it, yes, sir.

Q Will you turn to a question there that reads, "What was the driver's name?", and read us that question and the full answer to it, down to the first full paragraph?

CASE #2110



*Start*  
"Q

What was the driver's name? A I don't know; about as--"

MR. MOORE: The only question here is whether that is "woman", or "wagon".

MR. EDWARDS: Exactly.

MR. MOORE: I think that is the one to answer. It says "fifty feet from the woman", and I am frank to say, upon taking his testimony, I think he has wrongly transcribed it, and it should be "wagon", and that is the only question, whether it is "woman", or "wagon", in the original.

Q Will you just tell us that, just finish that sentence you are reading now? A "About as we were turning there I seen this party standing about fifty feet from the wagon".

Q That word is "wagon", is it? A It is, decidedly.

Q There is no question about it? A None at all.

MR. EDWARDS: That is all. That is the people's case.

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Mr. Moore then summed up the case to the jury on behalf of the defendant, as follows:

May it please the Court and Gentlemen of the Jury: It is needless for me to say that, in addressing you and presenting this case to you, we have one of the most solemn and serious tasks that come to a lawyer in his whole professional career, and I think I feel the burden of that. The District Attorney also has that same burden of protect-

CASE #2110



ing the State, and you, and I know you realize it, have your most solemn obligation to perform.

The obligation of a jury is always arduous. When it comes to you to say whether or not by your verdict a fellow man's life shall be snuffed out, then you come to one very, very serious problem in your life, and I know you appreciate it, because, if, forsooth, any mistake is made here and by that mistake the defendant's life is taken away, no subsequent developments can restore the life wrongfully taken. So I know you will approach your deliberations with the same feeling of responsibility that I am now making my last appeal in behalf of this unfortunate man.

I am here because the Court assigned me to defend him, and it is a humane provision of our law that when a man is charged with murder if he has not the means at his disposal to prepare his defense and retain counsel, then it is the duty of the State to provide him such, and that is the reason that I am here, and under those circumstances I feel even an added responsibility, because, in a measure, I am an attorney for the State, as well as an attorney for this defendant, and I realize that there are peculiar features in this case, and yet, when you get down to the evidence in the case as to whether this defendant is guilty, or he is not, we rely upon these four young men, because, outside of what the four young men say, the facts are practically conceded.

In many respects, this case is without issue. The re-

CASE #2110



relation of the unfortunate dead woman and this unfortunate defendant prior to her death is conceded. The course of conduct of the defendant after her death is conceded, and the only question and the only thing in the case is whether or not he is the man that stabbed to death that woman on the 28th day of last October.

Now, in determining that question, of course, it is your duty, as the Court will charge you, to weigh the acts and conduct of this defendant subsequent to her killing and prior to it, and it is also your duty, in weighing those, as I intend to discuss it, it is also your duty to consider who he is and what he is as he is pictured to you upon the witness stand since he came to this country.

He is one of those unfortunate, almost a derelict in a way, you would say, who had been moving about from one place to another, staying only a little while in one place, staying a little while in another, so that he in no place and no spot lived long enough to acquire an acquaintance in the neighborhood such as would give him a standing for peace and quiet or otherwise that we might bring witnesses here.

But, gentlemen, if he had ever been quarrelsome, - he had told to the Police Department where he had been during the four and one-half years he had been in the United States - if during any of that time he had been other than

CASE #2110



what he appeared upon the stands- and, I submit, that even though he is ignorant, even though he is a roustabout, to me it seems ~~as~~ though he has got a tender heart, and that is the first thing that appeals to me.

I can't conceive of a man with a tender heart taking a knife and thrusting it twice into the left bosom of that unfortunate woman and once into her neck, severing the jugular vein and the main artery. I can't conceive it.

And, gentlemen, I believe, after you have seen him upon the witness stand, were it not for his letter and this token, you would say he is a man of a tender heart.

But the District Attorney, I apprehend, when he comes to address you, will say, "if he didn't, who did?".

That is not your problem. That is not a thing for you to solve - "if he didn't, who did?".

We are not here to point out to you who did, but we are simply here to say that they have not established the fact that we did; but there is something possible, and I have always thought that there is a Providence, and so it is declared in the good book, that looks over and protects the weak and the unfortunate.

If we didn't, who did? And I don't know, I have thought as I read this letter I got some comfort from it. I thought possibly from this letter we had got an explanation as to who did.

CASE #2110



Now, mark you, the theory, I take it, of the prosecution, at least the line of questioning that has been presented to you here, would indicate that it is going to be the closing intention of the District Attorney to urge upon you that we killed because of jealousy. And then, if that be so, possibly this letter will say to you, "If we didn't, who did?". There can be no doubt but that there are others.

Had the defendant gone upon the stand and maligned this dead woman, by saying that he knew that Fred and John and Webster and Spanish Jim and Lorenz were also paramours of her's, then you might say that he should be doubly condemned, first for killing this unfortunate woman, and secondly for blackening her character by bringing in these other men.

But, gentlemen, is there doubt but that the other men existed? Here is a letter that is addressed to her - this is not a fake - before her death, in which he says, "You know what you told me from Fred and John and Wilbur and Spanish John and Lorenz."

Now, of course, if he had not explained, - and the poor unfortunate didn't want to, because I honestly believe, and I think you believe, that he loves the woman still - he didn't want to bring those facts out. But what do they mean? "You know what you told me about

CASE #2110



Fred and John, Wilbur and Spanish John and Lorenz".

Now, what does it mean? It means only one thing - that these other six men, like this defendant, had been enamoured of this woman, had possibly been in the same relation to her that this defendant was.

Now, might not one of those men be equally jealous? Might not one of those men have the same motive for killing, because she had done to them, or one of them, what she had done, in a way, to this defendant? Mind you, that we have not had anything to do with her since the 6th of September.

Now, I don't say that, but I say that letter speaks volumes as to "If we didn't, who did?". And it may be that some of the other men who had to do with her did not have the tender heart and the affection for this woman that this defendant had.

The District Attorney took a long time in cross-examination of him, as to whether or not he was jealous of the woman, and repeatedly he said, "No". He was sorrowful, he was sad, because he loved this woman, he said.

She had, or he had, I don't blame her more than him, but the man and woman met together, and they had gotten together in this year and a half, and he had learned to love her, gentlemen, and you don't have to take his word for that.

CASE #2110



Why, when you read this letter - and you recall the reading of it - you can take it to your jury room with you - isn't that almost the sobbings of a broken heart? Was there ever a more pathetic appeal for reunion than that which is brought forward in this letter? Not jealous. Even willing in this letter to let her go with Fred and Jack and John, Spanish John and Lorenz, if you will only let me see you once a week, or once in two weeks. You tell me to forget you. That is easy to say, but hard to accomplish when the heart aches. That is what this letter says. "I can't forget you." And then is it strange to say, "with my heart bleeding, you tell me that you will meet me as a stranger? You will have nothing more, and I can't meet you on the street. I have got to go away". So they bring out in the first letter. "I cannot stay here longer. I have got to go away".

And then a little later he writes this, and says, "I have changed my mind. I can't go away." And then he takes this letter and delivers it to her in person, either on the day he wrote it or the next day, and at that time he gets no advances.

Did he love her? Here is a picture, gentlemen, that she gave to him two years ago, he says. He treasured that picture; had gone along to Easter, the time when tokens of friendship and love pass from one to the other

CASE #2110



through our community, and he makes that beautiful frame for the woman he still loves.

Does such a man kill the woman he loves? I tell you that there is nothing in this poor derelict's soul that speaks of the milk of human kindness, and this speaks volumes for his love.

Add that to the letter and there is no doubt but they will show to us whether he did love her. He might have gotten mad when he met her on the 28th - and she still loves him - and in the heat of passion he struck her down, although he loved her. That is what the District Attorney will present to you, and he will say that must be so, forsooth, because the four young men who don't know him, who have no interest at all in this controversy, come forward and swear that he is the man.

Why, Gentlemen of the Jury, you heard these boys, and you heard their story upon the witness stand. Would you electrocute a yellow dog upon such an identification as they made? Do any two of them agree? - All of them at the time, and it is so reported to the Coroner, said the man who killed the woman had a black mustache.

MR. EDWARDS: I will have to object to that, sir. There is no such evidence in the case.

MR. MOORE: I will try - where is the Coroner's report?

CASE #2110



MR. EDWARDS: That is not in evidence.

MR. MOORE: Very well. I will get it in evidence.

I read from page 37 of the record, question, to the first witness, Fenn; "Now, the man"- on cross examination -

"Q. Now, the man that you saw, as you claim, that did the stabbing, you thought had a black mustache, didn't you? A. Yes, sir."

And he follows that, after he looks this man over and sees he has got a light sandy mustache, with this:

"Q. And you so stated at the time, that the man who did the stabbing had a black mustache, didn't you? A. Dark mustache".

But, first he says that he did think the man had a black mustache. So, to discuss him just a little bit further, he also swore in that same connection that the man had on a brown suit and light cap.

Now, I have checked that, so there shall be no mistake about it. He said a gray cap, but here is his question and answer, on page 38:

"Q. What kind of a cap? A. A light cap".

That is what Fenn said. First he said, in answer to my question, he thought at the time the man had a black mustache, and he also thought that he had a light cap and had on a dark brown suit of clothes.

Now, I want to read a little more, and the mustache

CASE #2110



comes here again. I read from page 64, from Terrano's testimony:

"Q. And you say that the man that you saw talking with the woman had a black mustache, did you not? A. Yes, sir."

Can anything be plainer than that?

"Q. What?", because I didn't quite understand his question. A. Yes, sir."

Now, I want to read the identification that comes from this man Terrano, because I think it is so important that it should be read, and later I am going to discuss with you why it was sleeping.

"Q. And then you saw the man running around the corner of Christopher street, in to Park avenue, towards Fifty-second? A. Yes, sir."

"Q. Was he running fast? A. Yes, sir."

"Q. You didn't get a very good look at him then, did you? A. No, sir."

"Q. Didn't you say that the man you saw had a black mustache, in describing him afterwards? A. Well, I couldn't just get a very good description of him at that time."

Now, if we didn't go any further with Terrano, just take this into your jury-room: "Well, I couldn't get a very good description of him at that time", and yet, gentlemen of the jury, one year later he sees him in a line-up, and says, "I

CASE #2110



know that is the man".

✓ "Q. I know you didn't, and you didn't have a very good description of him, did you?" Now, just think of that. That is Terrano. "A. No, sir.

"Q. You never had a very good description of him, did you? A. No, sir.

"Q. Because the look that you got at him was rather a fleeting one, wasn't it? A. Yes, sir."

Never had a very good description of the man, the look he got of him was a fleeting one, and yet, sir, they ask you to send him to his death upon a fleeting look, and not a very good description.

"Q. And you did say that the man you saw talking with the woman had a black mustache, did you not? A. Yes, sir.

"Q. You saw him, did you not? A. From a distance.

"Q. Well, you saw him, didn't you? A. Yes, sir.

"Q. And the day before this man that you saw you say was cursing and swearing in front of the building you saw, and you passed by him on a walk, did you not? A. Yes, sir.

"Q. Then, that day you had a fair look at him, didn't you?", because I wanted to be fair with him, and what is his answer? "A. He was turned sideways, looking slantingly at me.

"Q. Just answer me. Did you have a good, fair look

CASE #2110



at him on the day before this man that you saw who was cursing and swearing?" Now, mark you well this: "A. Well, I didn't take any particular notice of him."

— Yet, a year later, the man that he got a slanting look at, the man that he saw from a distance, the man whom he could not describe, and got a fleeting look at, the man he did not take any particular notice of, he comes here and tells you to take his guess that this is the man, and send him to his death.

I followed that up, because I wanted to press it to him.

"Q. Then, you didn't have a good look at him? A. No sir, no sir."

And again I asked him, "And it was your recollection that the man you saw both upon the day preceding the killing and upon the day when the woman was killed had a black mustache, was it not? A. Yes, sir."

Now, Weinstein said the same, as you will recall, that he thought he had a black mustache, and I will come to that a little later.

Conway didn't say much of anything, but, gentlemen, if that were not enough, if the uncertainty of this identification made by Terrano and by Conway were not enough, then we go just a little further.

Fenn says that the man had on a light cap, as I have

CASE #2110



read to you. He says he had on a brown suit, as I have read to you. Terrano, and I read, sir, from page 71:

"Q. Can't you tell whether it was a light colored cap, or a dark color? A. A kind of dark color."

And then you will recall that Terrano said that when he identified him in the line-up he had on a gray suit, and so did one of the other witnesses.

There can be no doubt about that being a mistake, gentlemen, because this poor unfortunate beggar has only the one suit, and that is the one he was arrested in, and that is the one he has been wearing ever since, and that is the one he had in Police Headquarters when these young men went forward to pick him out as the slayer of that unfortunate woman.

Now, at that time, gentlemen, when they are in that line-up they are there for business. They are there to look over carefully the man that they are going to afterwards identify as a murderer.

To think, it is almost as if they realized it, although I don't think they had, by reason of their youth to think, it is almost as responsible an obligation as rests upon the shoulders of this jury to day, and yet they tell you he had on gray clothes, and one of them described the hat as one similiar to the one worn by the third juror.

CASE #2110



Now, gentlemen, we come to the next man, Conway, and I read again, from page 82 of the record, the little boy, Conway, and before I read that I have got a comment to make on Conway.

That little boy - and I don't want to charge anyone of them, not any single one of these four, with deliberately coming into this court and testifying falsely, but there is a peculiar psychology we have all felt, that we lawyers have seen repeatedly, and that is, you talk over a situation with your fellowman about a thing that happened, or a thing that you saw, and you talk to him about it until he will finally come to the conclusion that he saw the same thing.

Now, you will remember that I went over it fully once with these boys, to show that they did talk over upon several different occasions the way in which this man was dressed and the way which he looked and his appearance and all that, and then they get the conclusion that their minds meet along a certain line, unconsciously, subconsciously, each of those four young men is aiding the other to arrive at a conclusion as to the man was dressed and what he looked like.

Now, Conway says, at page 82:

"Q. How was he dressed? A. He had a kind of a blue suit, or a brown suit, with stripes in it, white stripes.

"Q. Well, there is a lot of difference between a

CASE #2110



blue suit and a brown suit. Which was it? A. Well, a blue suit.

"Q. Sure about that? A. Yes, sir.

"Q. What kind of a hat, or cap, did he have on?

A. Just the cap he wore.

"Q. What color? A. A gray cap."

Question, because it was misunderstood, apparently,

"A Gray, - question read. "A gray". Again, the question repeated, "Gray? A. Yes, sir.

"Q. You are sure of that, are you? A. Yes, sir."

Now, we have, first, Fenn with a brown suit and a light cap. Then we have Terrano with a brown suit and a dark cap, and then we have Conway with a blue suit and a gray cap.

Now, gentlemen, I am going, I think, to demonstrate to you beyond a peradventure that neither Conway, the boy Conway, nor the boy Terrano, had such a look at that man as would justify for one minute your accepting their identification as worth that (snapping fingers).

Now, why do I say that? Fenn was where he could see all the time, apparently. He was not paying any attention to what was going on, until the woman fell, and you know very well that the moment that the woman fell, whoever was her assassin, took to his heels, don't you? And it was then that Fenn's attention was called to it, when the woman falls.

CASE #2110



Now, why do I say that? Because he says he did see no knife, and he did not see this man who was with her strike her a blow at all, but here he says that after he went down he saw him put his hand down upon her.

But, if he had been watching, if his eye had been on those people, he would have seen the first blow struck, wouldn't he, because he says he was only about twenty feet from them, and they are all in Fifty-third street.

Now, then, am I not justified in asking you to assume that, under those circumstances, the first time that Fenn was attracted to this man and woman was when she fell, and then the man was fleeing? And, when he flees, gentlemen, he is fleeing away from Fenn, because he is going - Fenn is down here on Fifty-third street, at the easterly corner of the large apartment house, and the woman falls between that and Park avenue, and the assassin flees down Park avenue.

Then it perforce is that the moment that he strikes the assassin's blow and flees, his back is to young Fenn, with whatever obstructions there may come from the horse and wagon that is there in the roadway next to the curb, but, in any event, with his back to him, and young Fenn appreciated that. Boys, when they are going along, they don't want to be tripped; they want to get the notion that they are going right; and Fenn admitted that he did not see him very

CASE #2110



well, but he got a look at his face as he was rounding the corner going towards Fifty-second street and on Park avenue, because then he looked back over his shoulder.

Ah, gentlemen, are you going to send a man to his death because two hundred feet away - that is the distance from where he stands to the corner as it is figured on this map - as he is swinging around the corner, he casts his eye over his shoulder, and you catch a glimpse of him under those circumstances? That is when Fenn first saw the man that ran away. And I don't care whether it is this defendant, or not, he must be proven guilty, and not guessed at.

Now, there is even more criticism goes to Terrano's testimony than Fenn's. Fenn and Terrano can't both be telling the truth. Why? Now, follow me, and see if I make a wrong assertion?

Fenn says that they were standing, talking, upon the walk, about midway of the building, and that the woman backed off the curb into the street and backed up until she came to this spot here (indicating on diagram), the sewer plate where she fell, a distance, gentlemen, of twenty-five or thirty feet - I think you would find by the scale possibly forty feet, but twenty-five at the very least, - backing  
She ~~backed~~ up, and he following her when she fell.

Now, is that is so, then Terrano never saw this man

CASE #2110

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and woman talking, as he said he did, upon the street, and it just fits in to what I read to you here upon his cross-examination. He got a fleeting look at him as he was running away.

True. Don't misunderstand me. When Terrano passed along this street, so as to go to No. 101, when he passed down this street, coming from Park avenue into Fifty-third street, they were then standing, concededly from the evidence, the man and woman, or started their altercation just about in front - that is, pretty near the middle of the building. There is the dairy, 101, and it was in this place where Terrano was going (indicating on diagram).

Now, Terrano says that he passed these people as he was going down to the dairy, and they were talking, and he saw them talking. Did he? Now, I think I can demonstrate to you as positively as 2 and 2 makes 4 that if he did see the man and woman talking upon the sidewalk where he could pass them, then Fenn did not tell the truth about the woman backing down the walk. See?

I think Fenn told the truth. He never noticed this man and woman if he was going down to the dairy place, because it must be of absolute necessity if they backed from this cross-mark here (indicating on diagram), which is almost in front of the dairy, over to the plate, they had to go, in their backing process, much further than he did.

CASE #2110



Now, if they were standing still here (indicating on diagram), so that he passed them going to the dairy, and just as he is turning the latch to go into this dairy house, the man runs by him; and I was particular about that, gentlemen, you will recall, and I said, "Had you got completely in, or was you just going in?", and he says, "I was just going in, had just turned in when I heard them shouting, and I turned and saw the man running by me".

Now, if that was so, how in the world did he see them standing here, the woman backed down to this place, because they were standing when he passed them, and then, just as he gets this distance, you must presume that he was walking at an ordinary gait, you must presume that the woman backing up could not go much faster than a man would walk, how in the world did she back down here, and then the man run all the way back that distance of nearly eighty feet, or, at least, fifty feet, backing down and running by, so as to pass him as he was going in?

Why, gentlemen, that is not so. He did not see the man and woman on the street. They were there, but he did not notice them, any more than you would notice them if you were walking along this avenue.

Do you take notice of every man and woman that you pass upon the street, or do you take notice of every man or woman that you see upon the street? No. If there

CASE #2110

1323



is some special occasion for it, then you do,

But, then again, I am particular, and you will recall I asked him, "Did you hear anything that they said as you passed them?" "No". "Did you observe anything out of the ordinary as you passed them?" "No, no."

And then, when he has forgotten that subject, about seeing them standing, because, with only that fleeting glimpse, it would not be very satisfactory, but he gets a look on passing them; that is one thing; and then I ask him on the other, and he says, "All I got was a fleeting glimpse, and I didn't get a very good description of him", and that is true, gentlemen, and that is the reason why he could not tell whether he had a black mustache; that is the reason why he could not tell how the man was dressed, because he could not get a good look at him.

Now, then, as to Conway, I think we can demonstrate just as readily with Conway that he was not paying any attention until after the woman was struck down, and then the best he can get is seeing the man who is running. Why?

You will recall that Conway said he came from Park avenue into Fifty-third street, and that he took the sidewalk upon the same side of the street where this man and woman met and began their altercation.

There is no doubt about that, is there? She was struck down about one hundred feet from the corner.

CASE #2110



He says that he had advanced off Park avenue into Fifty-third street a distance of about fifty feet when he saw a man running by him.

After a great deal of difficulty in the court room, he picked out this defendant, as you will recall.

Now, gentlemen, was that messenger boy, going along the street, whistling and skipping, as boys generally do? He must have been, and I will tell you why?

Here he is, facing towards the scene of this transaction and within fifty feet of the place where the woman was killed, with the street open, and he doesn't see the woman struck down. The first thing that is called to his attention is a man fleeing by him. Was he looking the thing over? The man is running away, running by him. That is the first that young Conway sees, and he don't know that the woman is struck down, until he comes back and sees her lying in the road. How much attention was he paying to what was going on?

And then, gentlemen, we come to Weinstein. Away over on another street, Fifty-second street, he sees a man running; he runs by him, so he said. He don't stop him, but he says it is this defendant.

He thinks he had a dark mustache, that man, but he had profited by the experience, I take it, of his friend here, and he didn't undertake to describe what kind of clothing

CASE #2110



the man he saw fleeing had on.

Now, I wonder - he says, "I think he had some dark clothing", but he couldn't describe that very well. I wonder if, simply seeing a man run by you in the street, under circumstances such as those, that a year later he could describe the man readily, and yet how poorly he could describe the man that was chasing him.

Now, if you see one man running and another pursuing, you are looking at the one, and you are bound to see the other. He can't tell us how the other man was dressed, except that he was a chauffeur; can't tell anything about his features. He don't even know whether he was smooth faced, he thinks he was. But he can pick this fellow out without any trouble. "This one, I am sure of him", because he is on trial for murder. And he doesn't do that until nearly a year later.

Now, I say, and I say it solemnly and seriously, upon evidence such as that, it is not a question as to whether you may believe the boys or not, that is not the rule, because it comes right down to that - are you satisfied beyond a reasonable doubt that they are not mistaken? That is the test.

Can you see a thing like young Conway coming in here, a boy seventeen years of age, and asked to look around and see if he can find the man - don't you suppose that any

CASE #2110



boy that grew up in this metropolitan city knows how jury trials are conducted, long before he is seventeen, particularly if he rises to the position of captain of messenger boys, delivering telegrams in every court in the city, and yet, his first look is at you twelve jurors?

He didn't find him over there (indicating), and then he takes a look around the court room, and he didn't find him there (indicating), and he casts his eye back into the jury box again, and he didn't find him there. He takes another look over here, and finally he discovered him, just where the defendant always sits, and he knew he was brought here to swear that that was the man. That is the proof that the little fellow is honest, but they realize too much the importance, and easily, one with the other, bolstering up the situation, to say that this is the man, and you have to convict upon the testimony of those boys, or else you cannot convict at all.

Now, we don't stand entirely upon the weakness of this identification. Here is another thing, gentlemen. Here it is, this suitcase. A detective police officer was put upon the stand, as you will recall, and he searched the apartment of this defendant, and I bless him for it.

He found this token of love and affection. A poor devil, without any other suit of clothes in his room, and without another shirt, and yet he carries this along with

CASE #2110



him.

They went there, not to find this evidence of our love, not to find this evidence of our tenderness, but to find, if they could, a brown suit of clothes, or it wouldn't make any difference if it had been a blue one; to find, if they could, a dark red cap, or it wouldn't make any difference if it had been a light gray one; and had they found a dark brown suit these boys would have said, "That is the suit he wore". That is what they went after.

Had they found a dark blue suit, by that same psychology of reasoning, Conway would say, "That is the one he had; it was a blue one"; and then they would have discussed it again, and that would have been the suit he wore.

Had they found a dark blue cap, that is the one that Terrano said he had on, why, then, immediately the others would look it over, and that would have been the thing. They were mistaken when they said it was gray. No, no, there would not have been anything said about gray, because he being unfortunate, was never protected in the preliminary examinations, he had no lawyers at the time these boys were sworn before the Coroner, and so we would come in here with a dark blue suit that they found in our room and the gray cap that they found in our room, and that would have been the suit he had on; or, if they had reversed it, he would have had the dark blue suit on and the

CASE #2110



gray cap; that would have been what he had.

I say psychology brings that to the boys, and I am going just a little bit further in that reasoning, and see if I can make you understand how they got mixed up.

You notice that a dark blue cap figures in this thing, don't you? You noticed that a brown suit figures in this, don't you? You also notice that a gray cap figures in this.

Now, the only thing was, one of the boys, after they had talked it over as to what it was, and one of them dressed him up in blue, and put on a gray cap, and the other dressed him up in brown, and put on the blue cap. Simply one twisted the cap for the truth, that is all, and then they recalled it, or undertook to, a year afterwards.

They didn't find anything in his trunk, they didn't find anything in his place that would justify such a conclusion, they didn't get what they went after, because a man who is spending his nights, once in a mission house, because he hasn't got fifteen cents to pay for a lodging, and other nights at a ten or fifteen-cent lodging house, don't have the wardrobe that goes with lots of men; and have you any doubt in the world that if he had the dark blue suit a year ago, or had the dark brown suit a year ago, they would find some of it?

CASE #2110



These detectives thought they would. They thought when they went to this house they would find it, and that is what they went there for, but they did not find it.

Now, that is not all. That is the People's case. Oh, but they will say to you, "You see, changing his name is evidence of guilt. He met this woman, had written her a couple of letters, had talked with her a couple of times, but she repulsed him, and he would not run away and leave her if he loved her. He wouldn't run away, and didn't."

Well, I don't know as to that, gentlemen. He had tried, as the evidence shows, he had tried upon several occasions to get back with her, and the net result of that endeavor is ten days in the Workhouse, and if anyone of you twelve jurors can tell me why that poor unfortunate man was sent to the Workhouse for ten days, or can tell your brother jurors when you go to the jury-room, from anything that you heard upon the witness stand, I would like to know it. Does anybody say anything?

He was arrested for having a knife that is figured here a concealed weapon, and they discovered that it was not, and it was given back to him, and they sent him to the Workhouse for ten days, anyhow, and then told him to keep away from this woman.

Now, is there any doubt that he did keep away from the woman after that? He says that he saw her twice.

CASE #2110



Now, would anybody be likely to color this - anybody on the prosecution's side be likely to color that in favor of the defendant? Particularly, would the son of the dead woman be likely to color that in favor of the defendant?

And the son of that dead woman, upon my cross-examination, said that after he came out of the Workhouse, from that time until the day his mother died, he never knew her at all, and there was no complaints of any kind, and that when they met and passed upon the street upon several occasions they passed without speaking, because speaking to her once gave him ten days in the Workhouse, and speaking to her again would give him six months. Ignorant, though he might be, he knew the danger of speaking to her again.

But he wrote her that letter. Now, he don't just remember what she said in response to that. It were just as well if he were wrong; and so she told him she would have nothing to do with him, to go away, but his recollection is that she didn't treat him unkindly then, but she had upon two occasions before that told him she would have nothing to do with him, and I haven't a doubt in the world but that she did tell him the same thing then, but he doesn't remember it now.

He has not tried to color; he tried to be honest, so

CASE #2110



honest, gentlemen, that this crept out from him, when little Fenn was trying to get into the room, and he did see him, when he came into the Detective Bureau.

- Now, most men would come in here and say, "I was framed up in that line-up". Think of these boys - the only one that we saw before he went into that line-up was young Fenn. We saw him when he was in there.

But what does he say the conduct of the officers was? We didn't have to say. The officers hadn't said it. He said the officers rushed to him and pushed him out and says, "Here, get out of here, we want to give this man a fair deal".

Gentlemen, that came from the lips of this defendant. Now, that in a way would be prejudicial to him if our theory was a frame-up. But he was so honest that is what he says. "Get out of here. We want to give this defendant a fair deal."

And I haven't any doubt in the world but that the officers, at least upon this occasion, did try to give the defendant a fair deal. But there was this about it, and that happens too often, - officers look over a situation, a crime is committed, murder done, as in this case, and then they say, "Well, who would be likely to do it?" That's him. He was annoying her, and she had him sent to the Workhouse for ten days. That is the fellow. And then

CASE #2110



you begin to build around that, rather than starting with your evidence and building on that. You first get your victim, and then build around that.

X And he was a very likely and logical candidate for the killing of this woman, but was he any more likely and logical a candidate than was any of these other six names that he mentioned in that letter?

More than that, I claim, gentlemen, that we have an alibi here, and I claim that that alibi is established by the People's own witness, that is Jacobson, whom we intended to call if they had not. X

Jacobson says that a little after two o'clock on the day this woman was killed this defendant was in his place on Eighth avenue between Fortieth and Forty-first streets. X I didn't ask Mr. Jacobson how long he stopped there, but the defendant says he stayed there over half an hour.

Now, I give my friend, the District Attorney, credit for too much astuteness to let that admission out, this all important subject of time, because now we are getting down to where minutes count. He says he remained there for one-half hour. The woman was killed at three o'clock. That is fixed by the officer. Now, then, we would have to be pretty rapid.

X Neither one of them is exactly certain. He says between two and three, the defendant says. Jacobson says a

CASE #2110



little after two. He was there for half an hour.

Now, assume that it was twenty minutes or ten minutes past two, and he is there a half hour, would he hardly get over to Fifty-third street, and this is taking in the time that would be allotted to him to go there?

He may have been in Jacobson's place at the very moment the woman was killed. My client is too honest to fix it. He says, "I can't fix the time more definitely than to say it was between two and three".

Ah, but, gentlemen, how prone men would be to lie under circumstances such as these. If this poor unfortunate were not honest, knowing that that was his only alibi, he would have said, "I went there at three o'clock, or a quarter of three, and stayed half an hour", and then he would have been in Jacobson's restaurant, and Jacobson would not have denied it, except to say, "I think it was a little after two".

We were in the vicinity of Eighth avenue and Fortieth street, if not actually in this restaurant, as the proof both upon the part of the people and upon the part of this defendant shows, at the very time that the assassin struck this woman down.

So that, if this identification, which is always dangerous, if this identification were more complete, still you could not overcome the proof of our being in Jacobson's restaurant at almost the same time she was killed.

CASE #2110



Oh, but they will say, the fact that he went away. Well, he was not getting very good treatment. The woman had caused his arrest. He had written her two letters. He had seen her two or three times; and, gentlemen, while he says that he wrote this, hoping to get back, I take it that the poor fellow in his distraught condition, was writing it more as a farewell than anything else, because in it he explains his whole conduct; he loves that woman - that you are satisfied of - and he writes this to her, with a view almost of saying good bye, "I am going to try and forget you", because he had no work, he had no place to sleep; he told you about this woman turning him out, taking the clothing off his bed; and then, when he went over to Jacobson to get the fifty cents to pay her, he wouldn't give it to him, and he got twenty-five cents and a package of cigarettes, and they told him that is all they owed him.

And where could he go? Remember, the 28th of October ordinarily is pretty chilly, and he has got twenty-five cents in the world between him and the streets that night. Now, where would he go? He had worked down on the Bowery the night before. He knew, as a great many others knew, that on the Bowery you can get lodgings for fifteen cents a night. Where would he go? No other place in the world where you can get them except on the Bowery, in New York City. I don't know of any.

CASE #2110



He goes down there, and his twenty-five cents is gone for his lodging, and whatever he eats. The next day and the next night he is in a mission house. Then he gets a little change from friends here and there, tramping the streets, unfortunately, until the 3rd of November, and then he applies for this job.

Oh, they will say, the guilty flee when no one pursueth. This man would never have told Wagner that his name was anything but John Hendricks if he was not guilty, if he was not dodging.

But, gentlemen, what do the facts show? And they were brought out by Wagner. That he had worked for Wagner a year and before/had been discharged because of irregularities, because of intoxication, if you please. Wagner said so, but Wagner says, and again this defendant is too honest with himself - Wagner said after he had been there a couple of days he thought he recognized him as the John Hendricks that had worked for him the year before, and he asked him if his name was not John Hendricks, and he said it was, and he asked him why then he had the name of Smith. He didn't know the first name, but, in fact, it was Peter, and Mr. Wagner says, "I don't remember whether he told me it was because he was afraid he would not get the job, or not". He says, "I won't say that he did not, but I do know he told me what his name was at that time", and the defendant says

CASE #2110



he don't think he told him his name was Hendricks. That is, he don't remember, but Wagner says he did.

Were we covering up anything? Has there been a single minute since the 28th of October when this defendant has been outside of the City of New York?

He went over there to work in the candy store, and he says that he worked under his own name there, simply dropping the Von den, his name being Von den Corput.

Now, Hendricks was never his name, any more than Peter Smith was. Why should he hang on to that handle?

It didn't belong to him. But he says he took the name of Peter Smith because he was afraid that if he told him his name was Hendricks that he would not get the job, and Mr. Wagner says that is so.

Then he says he went back after his two old shirts, and the house was locked up. You remember the caretaker, and she said that shortly after this woman was killing that Mrs. Anderson closed up the house and moved away. Does that corroborate this defendant? Just how long afterwards she didn't know, but she closed it up sometime after, and moved away.

And then, lastly, gentlemen, I don't care whether his name was Peter Smith, or what-not, he was never under cover for one minute. He was here living on the Bowery, probably a street that is patrolled more frequently and by more plain clothes men than any other in the City of New York, and I

CASE #2110



won't exclude the Tenderloin, mingling with men along the Bowery day after day and night after night for months and months. Is that fleeing? No.

And then, gentlemen, lastly, I say to you, because they are going to hammer upon the change of name, lastly I say to you that if this man knew that he had killed that woman, would he walk right back into the arms of Jacobson and his partner and talk with them? - because gentlemen, he knew that he had been working for Jacobson up until this time and before, off and on. He knew, as any man with any intelligence at all would know, that the very first place the officers would go looking for him would be the place where he had been employed, so that both Jacobson and his partner were bound to know that this defendant was wanted, if he was wanted, and he is bound to know they would go there to look for him. Yet he walked back there, broke, and looking for a job.

I don't care whether Jacobson called him in, at any rate, they got there, and he was in front of the place, and the defendant says he went there looking for work. Jacobson says he thinks he called him in, and both may be true, but he went there. Is that fleeing? Is that the guilty man? No.

So, I say to you, gentlemen, I say to you in approaching this case, I don't see how you can be satisfied with this

CASE #2110



identification beyond a reasonable doubt.

Then, secondly, I don't see how you can say a man who has shown the affection and love that he has shown for this woman can be guilty of such a wanton murder.

And lastly I say to you we have established by one witness other than the defendant that we were not there at the time that this crime was committed, and again I call your attention to the fact, and if it were not so, the District Attorney would be speedy to prove it, when this man was arrested he unfolded his whole life to the officers at Headquarters, in just the same manner as he unfolded it here to you.

You will remember that I asked him, almost the last question on cross-examination, "Did you tell to the police officers at Headquarters the same story as to your whereabouts in the last year and your reason for it that you have told here? A. Yes."

I don't think they would have ever found in the world that we were working as Peter Smith in Beef Stake John's if he hadn't told him. I don't think they would have ever found in the world if we were working in the candy store under our right name if we had not told them. We told them all about it.

Gentlemen, my client asserts his innocence, and I have presented this case to you as best I could. I say the evi-

CASE #2110



dence does not, in my opinion, justify a conviction here, because it is too unsatisfactory, too unconvincing, so that twelve reasonable men should accept it beyond a reasonable doubt.

I leave his case and his life in your hands, gentlemen. I thank you.

Mr. Edwards then summed up the case to the jury on behalf of the People, as follows:-

If it please your Honor, Mr. Foreman and Gentlemen of the Jury: It is not a pleasing task to perform, the one that I have to perform; it is no more pleasing to me to stand here and review the facts in this case and ask you gentlemen to find the verdict that I think those facts call for than it is for you men to find that verdict, not one bit, but it is a fact that I have to perform, under the oath of office, just as much as it is a duty that you have to perform under your oaths as jurors.

I listened with a great deal of interest to Mr. Moore's summing-up. First, because I was very curious to know what he would say in this case, and, secondly, because I was very much interested in following his line of argument.

Now, Mr. Moore has attacked the People's case on two grounds. First, that the identification of this man as the one who killed this woman is worthless, and, secondly, that he has an alibi.

CASE #2110



A part of his attack on the identification is based on a misunderstanding on his part of the evidence in the case, a clear misunderstanding particularly with respect to one witness.

He argued to you that Terrano's testimony must be false, or Fenn's or Terrano's false, because Terrano came from Park avenue and walked along and came into 101 East Fifty-third street when this woman was backing in a direction where he could see her if he had looked. Terrano gave no such testimony. Terrano had been making a delivery, as he said, up -

MR. MOORE: If your Honor pleases, I did not so state. I said they were standing still, according to Terrano's testimony.

THE COURT: The jury will remember just what the evidence is, and harken unto it accordingly.

MR. EDWARDS: The part that I am criticising of Mr. Moore's argument is not that he said they were backing, or standing still, but he said Terrano testified he came from Park avenue. He did not. He testifies he came from Lexington avenue, and if there is any question in any juror's mind it is a very simple matter to read Terrano's testimony and see just what he did say. Page 54 of the record.

"Q. On that afternoon, the 28th of October, what were you doing? "A. I happened to be delivering an order, as I and/was coming back, when I seen this here man talking to

CASE #2110



the woman.

"Q. Where were you delivering an order? A. It happened to be up at Fifty-sixth street.

"Q. And what avenue? A. Lexington.

"Q. Now, when you were returning from making your delivery at Fifty-sixth street and Lexington avenue how did you come back? A. I come up this here way (indicating on diagram People's Exhibit No. 1).

"Q. You came down Lexington avenue and through Fifty-third street? A. Yes, sir.

"Q. You indicate the north sidewalk; is that what you mean, going west? A. Yes, sir."

He was walking along from Lexington avenue on the north sidewalk, and as he got along here he said he saw the woman and the man talking on the other side of the street, and paid little attention to them.

He came here, to the door (indicating on diagram,) and started to turn in, and as he was turning in he heard a shout. He got in, and came out, and saw the same man running around the corner of Park avenue. There is nothing inconsistent there with Fenn's story. There is nothing improbable in his story. But I don't want to take up this case in that way, gentlemen, I want to have you go through the whole evidence with me, witness by witness, and then see what that proof shows.

CASE #2110



The People opened this case by showing you how this woman was killed, by showing you what wounds she died of, what caused her death, and to show that, we put on the Coroner's physician, and the Coroner's physician told you that he performed the autopsy on this body; that she was stabbed three times, once through the heart, once a superficial wound over the sternum, that went to the bone, and was stopped, and once in the neck, by a knife, one that severed the jugular vein and the carotid artery. He told you that the heart/wound in most persons cause a collapse. He told you that there were cases on record where the victim had gone as much as fifty- or sixty feet after receiving such a wound, so that it was possible that she could have gone some distance, and it was also possible that she might have dropped when she received that wound, or immediately afterwards.

He said the wound in the neck which severed the two large veins would have caused her death by bleeding in the course of three to five minutes.

Now, of that there is no question. There is no question that Barbara Wright is dead. There is no question that she was stabbed to death on ~~the~~ a public street of this city, in broad daylight.

Now, the question is, who did it, and how was it done? And the People put on the stand first the police officer

CASE #2110



who was called to the scene, for two reasons. First, he was the first municipal official on the ground. Secondly, he was the man who identified the body to the Coroner's Physician, and showed whose it was; and, thirdly, because he fixed the time of the happening, as, under the rules of his department, he must fix it, and he tells you that he was called to that dead body between 3:15 and 3:30 on the afternoon of the 28th of October, 1914.

Now, who was our next witness? Our next witness was the boy Fenn, seventeen years old, a helper on Charles & Company's delivery wagon, making deliveries in this apartment house at the southeast corner of Park avenue and Fifty-third street on that afternoon. His wagon was standing right at the curb near the delivery entrance to that building, and he watching the wagon.

The head of his horse, he said, came about where he puts that line (indicating on diagram), not quite up to the corner of the Court. He said he was standing where this cross-mark is, against the iron railing, looking towards Park avenue (indicating on diagram). And as he looked, he said, "I saw a man and a woman standing on the sidewalk, about fifty feet from the tailboard of my wagon, talking". He said, "I didn't hear what they were talking about, but I saw the woman back off the sidewalk into the mudgutter", as he called it. By it he meant the drive-

CASE #2110



way, he said. "And the man followed her right up". He said they backed in there, and there was - "after she had backed off a little ways, my wagon came between us, and I didn't see them," as you can readily see here, where they were standing (indicating on diagram). There was the horse's head. The wagon tailboard must have been here somewhere (indicating on diagram). The wagon must have shut off his view. He said it did.

He saw the man following her right up, and as she came out - he says he ran up towards the wagon, where he could see better, and she came out into his line of vision again, and it seemed to him as if she stumbled over a sewer plate, which was right there. He said she fell right beside the sewer plate, and as she fell this man, with his right hand uplifted, leaned over and struck her again in the neck, just where the wound that severed the jugular vein and the carotid artery was made, struck her there in the neck, and then turned and ran.

He said he shouted and ran after him to the corner of Park avenue, where he turned and looked back as he turned the corner, a perfectly easily and feasible thing for him to do.

He said he ran on to the sidewalk. There were some people coming west on the sidewalk. He ran out beside the curb, around the corner, and outside, around some taxicabs

CASE #2110



that were standing outside this apartment house, and he said he shouted to a chauffeur to follow him, and he turned back into the street. We will come back to his story in a minute.

He said he had never seen the woman before, he had never seen the man before. When the man and woman were talking on the sidewalk, the man faced him, the woman had her back to him.

Then I called Terrano, who told the story of making his delivery, of coming back here and seeing this man and woman on the other side. He said he paid little attention to them. He recognized the man as a man he had seen the afternoon before on the north side of Fifty-third street in front of one of these apartment houses, cursing and swearing, as he expressed it, and looking up at the buildings on the other side.

When he saw the man run around the corner, he ran to the corner of Park avenue. He said he didn't run. He said he walked there, and as he walked to that point the man had disappeared. And Fenn said the man ran down, and he saw him turn east on Fifty-second street.

Then there is Weinstein, Isaac Weinstein. He has a stationery business in the building on the corner of Lexington avenue, on the southeast corner of Lexington avenue and Fifty-third street, with the entrance on the street.

He said, "I went that day to see a customer on East

CASE #2110



Fifty-second street; "I went south on Lexington avenue, that afternoon; it was after three o'clock some time" - he doesn't remember the exact hour - "and was walking on the north sidewalk of Fifty-second street, and as I got about in the middle of the block I saw a man running, chased by a chauffeur, on the south side". He said, "The chauffeur shouted to me to hold him. I was on the other side of the street. I couldn't stop him; the chauffeur was losing, and he stopped and walked back, and I walked back right behind him". He said he was dressed in dark clothes, and was a dark looking man, and he has never seen him since.

Then he walked back to Fifty-third street, and saw Barbara Wright lying there on the roadway, or on the sidewalk, dead.

Now, then young Conway - and whatever Mr. Moore may say of Conway, Conway impressed me as an unusually bright boy, a boy who was very sure of himself, a boy who was absolutely fair in what he said, absolutely honest, and was just as keen-witted as he could be. He knew what he knew, and he had no doubt about it, and what he didn't know he said he did not know. He said, "I had been to the Walker-Gordon Company". You probably know Walker-Gordon<sup>was</sup> on, situated on the northeast corner of Madison avenue and Fifty-second street, in the old Vanderbilt stables. "I had been on a

CASE #2110



call and I was returning, and I came through Fifty-second street to Park avenue. I came north on Park avenue to Fifty-third street, and I started through Fifty-third street on the south side of the way."

He said, "I had just turned this corner on Park avenue, and had gotten a few feet past the corner, when I saw a man running towards me with a boy chasing him. He went right by me, and turned south on Park avenue." He said, "I saw right away a crowd collect. I ran over here and saw this woman, and I ran down to Lexington avenue, and south on Lexington avenue to Fifty-second street to see", as he expressed it, "if I could surround the man", and he didn't see him.

So, we have got four witnesses there, two of whom had seen this man the day before, two of whom had never seen him before in their lives, and Mr. Moore seems to have a little confusion of mind there in his argument.

He implies that these boys were ready and willing to get together and make up a story and tell that story, even going so far as to say that if the police officers had found a blue suit or a brown suit or a gray suit or a gray cap or a red cap or a blue cap in this defendant's rooms, the boys would have gotten together, and that would have been what they would have testified to.

Now, I submit there is every possible indication in

CASE #2110



this case that the story of those boys has never been touched, has never been tampered with. No one has ever made a suggestion to one of them, and if such a thing has been done not one of them has accepted the suggestion, because they all come here and disagree on a multitude of immaterial points, and that is the best way to nail, as Mr. Moore well knows, a fake story, when you have an agreement on immaterial points.

If you twelve gentlemen would go out tomorrow and see a street fight on the corner, ~~not~~ on Canal and White street, and come back here and describe it, each one of you, honestly and conscientiously, just in a natural way, no one of your twelve stories would agree in every detail. Probably all of you could pick out the two boys that were fighting, but probably there wouldn't be one of you that would tell all the details the same. And why? Because there were an infinite number of details, and because one of you noticed particularly certain details, while another man would notice other details, and those which you saw <sup>and which</sup> impressed your mind did not impress the others.

But if you see a man running away today on the street, and your attention is attracted immediately afterwards to the fact that he has stabbed a woman and killed her, what do you remember about that man, if you notice him? You have a picture in your mind of that man.

CASE #2110



Could you describe his shoes, as Mr. Moore asked one witness? Could you describe the color of his suit? Could you describe the color of his cap? Could you describe the color of his eyes? No. But, if you saw that man, you probably would be able to say, "That is the man I saw", particularly if you had seen him twice. The thing that would impress your mind would be that man's face, particularly if he was of a type which was somewhat unusual.

There is a type of street-boy or street-man in this city that is more or less alike, and you might have difficulty in picking him out, but there is much that is distinctive about the face of this defendant.

Look at him, remember it as you saw him sitting on that stand this morning; and think of seeing him, as Conway saw him, running towards you, chased by a boy, and rounding that corner, where you got a full look at his face, as he came towards you, and then immediately afterwards saw that he had stabbed a woman on the street and killed her, something that probably Conway had never seen before in his life, do you think you would forget that face in nine months? I don't think you would, any more than Conway did, not a bit.

Terrano sees him one afternoon, cursing and swearing, as he said, on one side of that street, and looking up at the buildings on the other, and he sees him talking to this woman that day, sees him running away, and finds that woman

CASE #2110



dead, and Terrano remembers his face, and has no doubt about it.

Fenn says that he never saw him until he saw him as he stood there, and he watched him there. Fenn is absolutely honest. Fenn says, "I saw no knife in that man's hand. I saw him lean over and strike that woman, that way", and yet he says, "I didn't see the knife".

If you saw a man raise his hand and strike a woman as she lay in the street that way, and within two minutes saw that she had a cut where he struck her, even if you did not see the knife, would you have any doubt that he inflicted the wound? Not a particle. Not one of you would have any doubt at all.

And Fenn says that is the man, and Fenn didn't and Terrano didn't and Weinstein didn't and Conway didn't have anyone point that man out.

Even Mr. Moore says they don't claim a frame-up in this case. I suppose a frame-up is claimed in about fifty percent. of the cases that are tried in these courts, but they don't happen.

There is not a police officer that would dare put that man in a line-up unless that line-up was a fair line-up. Every one of those boys, or three of them, identified him at eight o'clock at night, when Fenn was not there, and Fenn came in the next morning alone and identified him.

CASE #2110



There was not one of them who did not tell you that they never saw him until they saw him in the line-up, with twelve other men, part of them smooth shaven and part with mustaches on.

I could not bring the police here and show you just who was in that line-up, just how it was made, but Mr. Moore on his cross-examination brought out from every one of those witnesses that they never saw this man until they went into the room alone with the line-up, and went down the line.

And what do you think they identified him by? A year afterwards they would not identify him by his clothing; they would not identify him a year afterwards by his hat. There would be only one thing that would not be likely to change, and that would be his face; and they identified him by his face, and every one of them told you he is absolutely sure that that is the man, each one of the four.

Fenn says that he went to that door, in Police Headquarters, and he is the only one that Mr. Moore suggests might have seen this man before. He says he went to that door, and knocked at the door, and the door was open, and as the door was opened there rushed out this big police sergeant, Willemese, whom I brought up here so you could see his face. He is almost four times as big as Fenn. He rushed out the door and almost carried him off his feet, down the hall. The defendant says he said, "Go away; give

CASE #2110



this fellow a square deal"; and Fenn says, "I just saw a little corner of the room. I saw a couple of people in there, and I didn't get a look at them". I don't believe he did. That is the identification.

And what else is there in this case? You always look for a motive. A motive is something that is very useful in determining what a man's intention was. And what do we find <sup>in</sup> this case?

We find a defendant who writes a letter to the woman who is killed, on the 26th, and she is killed on the 28th.

X We find by his own story that he delivers that letter to her on the day before he killed her. And the first thing we find in the very beginning of the letter is this, that he is writing to let his sweetheart know that he has changed his mind and is not going to leave the city, because he knows he could not stay away, he would be right back, and he tells you on the stand, "I wrote a letter to her before that and told her I was going away".

His feelings were too much, he couldn't go away; he had got to stay where he could see her.

Then we find that he goes all through their past relations in this letter, and we have no proof whatever that casts any aspersion on this woman's character in this case but that which comes from the mouth or from the hand of the defendant himself.

CASE #2110



He writes all of that description, and then he comes down to what caused the trouble, the drinking and the woman's son. Then he puts in here a blind statement about the woman's son, and when I questioned him on it he tells us that he caught the mother in bed with her boy, and yet Mr. Moore says he didn't want to blacken this woman's name by his testimony.

MR. MOORE: If your Honor pleases, I object to these remarks. I tried to prevent all that, as your Honor will recall. The District Attorney began the interrogation as to this woman's character.

THE COURT: The jury will only, of course, give regard to arguments that are addressed to the proof, and disregard those which are not properly and legitimately going to the proof.

MR. EDWARDS: Do you remember my reading to him on the stand that he heard her voice and said, "You never have seen me that time, and still I was there", and I said to him, "What did you mean by that?", and he said, "I was behind the door, at eleven o'clock on night, and saw her in bed with George, her son".

And then he goes on and said, "I could tell you something else that you would be surprised at", and he is unable to explain what he meant by that; and then he goes on and speaks of four other men, Fred, John Webber, Spain

CASE #2110



fellow, Lorenz, and, as he says in the letter, "maybe some more that I don't know", and then says, "but remember that some one will not stand for this. Times there happen lots of things in love affairs in this world. Shall not to fool with things like this, believe me-kid".

And then he sits on the stand here and can't or won't tell us what he meant by that. He says he didn't mean that he would not stand for things. Oh, no. Perhaps some of these other men would not stand for things.

But what does the letter mean, as you read it in the light of all the circumstances of this case? It could not be clearer. It means "Barbara, I won't stand for this. I won't stand for what I think you are doing. I won't stand for the way you treat me".

And then he goes on to beg for another chance, and, reading between the lines of that letter, his purpose and intent are just as clear as they can be. "You take me back, or I won't stand for it".

And then again, look at the testimony from the police officers. We have this man, Officer Winitsky, who twice on one day was called upon by Mrs. Wright because of the importunities of this man, twice on one day; he goes with her into Fifty-third street between Lexington and Park avenues the first time, sees this defendant, this man sitting here, no one else but this man, running away from him when he

CASE #2110



saw him coming, and dodging into an alley behind the apartment house and getting away from him; and the second time - that was at eleven o'clock in the morning. And the second time at three o'clock in the afternoon, coming again at Mrs. Wright's call, and not seeing the man who had gone before he got there.

Then you have the testimony of Officer Valentine, who was called in there a week before her death, on the 21st or 22nd, after he had been sent for ten days to the Workhouse for carrying the knife, coming in there that day, called in by a neighbor, not by Mrs. Wright, and finding this defendant in the hallway of Mrs. Wright's house, and having to put him out. That is within seven days of the time she died.

And then you have the 6th of September incident, before that, when he was arrested and when, in his presence, Mrs. Wright said that he had a knife on him, and the officer searches him and finds one, and the defendant when he took the stand himself, how does he explain that knife?

He says, "That knife I bought when I returned from work on the railroad, three and one-half years ago, to use in the commissary, when I went back on the railroad."

I showed him the blade, and said, "Isn't that brand new, never been used?" He said, "Yes, it is, but never was used."

CASE #2110



"Q. Did you ever show that knife to Mrs. Wright?

A. Never.

"Q. Did she ever see it? A. Never".

And yet he knows it is in his pocket, and tells the police officer so, in his presence; and counsel says he wonders why he got ten days in the Workhouse. I don't see anything to wonder about. The wonder in my mind is that he did not get the six months then, and if he had he would not be here now.

So, there you have got your motive. There you have got your efforts to persuade this woman to take him back, of the most persistent character. There you have got proof of four distinct efforts where she had to call in the police, in addition to the time when she put him out of the house and had to call a policeman in, which is five, and all within a period of less than two months, and running down to within six or seven days of the time he stabbed her to death in the streets.

And what else have you? You saw George Wright on the stand, and when you saw George Wright you saw a pretty decent looking boy of seventeen, an orphan, whose father was dead years ago, and whose mother was killed by this defendant on the 28th of October, 1914, a boy who is working for the Mott Iron Works today in the office, had to leave school because of his mother's death, who was in school at that

CASE #2110



time, she working out to keep him in school, and who came home at three o'clock this afternoon, expecting to meet his mother between that and half past, who is called downstairs to see his mother's dead body in the street; and he tells you that when that man was put out of their house and put out by the police he told his mother and told him that if he left that house he would kill one of them.

And then, following right after those threats, you have five instances of calls for police protection, and then you have the woman stabbed to death in the street, and four clean, good boys of seventeen come in here and say there is the man who stabbed her to death; there is the man who ran away from the scene; there is the man who stood over her and struck her after she had fallen to the ground, with a mortal wound; and then counsel stands up here and says to you there is no proof in this case.

Counsel says to you gentlemen that this man hadn't a cent in his pocket, and where would he go? He would go right down to the Bowery. Why?

What did Jacobson tell you when he sat there on that stand, and certainly Jacobson has no interest in this case? Jacobson did not tell you that this was a few minutes past two o'clock that he saw that man and gave him fifty cents. Jacobson told you something very different from that, and I want to read what he said.

CASE #2110



"The last day I saw him was the 28th of October.

"Q. And what time on that day did you see him? A. About two o'clock, between one and two". Page 143.

Now, Jacobson says he saw him himself. Jacobson says he gave him fifty cents, and Jacobson says he told him he would come back and work that night at seven o'clock, as night cook. He said, "I needed him, and I told him to come back that night and work from seven until twelve, and he never came".

If this man hadn't a penny of money in his pocket, if he wanted money, there was his job. Why didn't he go back and work for Jacobson that night, if he was so hard up? Only one reason, he didn't dare, for fear he would be caught.

He goes down, he says, first, he says that he got that twenty-five cents and the package of cigarettes from Jacobson's cashier. He doesn't call Jacobson's cashier to tell you so. Jacobson says he paid him the fifty cents. He said he stayed there a half an hour. He doesn't call Jacobson's cashier to tell you so, and Jacobson says that he was the man, he delivered that.

Then he says he went downtown, and he went to a Bowery lodging house and got a room for that one night, and he can't tell us where the lodging house is. He can't tell us who runs it. He can't tell us anything about it; and we can't verify whether he is telling the truth, or not. He doesn't

CASE #2110



even tell us what time he got there.

Now, from two o'clock at the latest, for Jacobson says it was between one and two, to three-fifteen at the earliest, because the police officer said he was called between 3:15 and 3:30; that man had ample time to go from Jacobson's restaurant to Fifty-third street.

And do you suppose he did not know when Barbara Wright came home from work? He knew just the hour she went out in the morning to go to work. He tells you that on the stand for he meets her there; and do you suppose he did not lay his plans to go there and get the answer to his letter at a time when he knew he could meet her?

Do you suppose he ever wrote such a letter, and then went off, as he claims, never waiting for an answer?

Did any living man who claimed to be in love with a woman who put him out of her house and would have nothing more to do with him, would any living man, after he had written a letter to that woman begging for another chance, as he begged in that, turn around and try to lose himself in the City of New York under a false name, without waiting for an answer? Never in the world. It is contrary to all human experience, and you know it, every one of you.

What did he do? He goes and he works for Wagner, on the 3rd of November. He had worked for him a year before,

CASE #2110



as Hendricks, and he goes back, six days after he had killed this woman, he goes back, not to the man he has been working for, not to the man he was to go back to work for that night and did not show up with, but to another man whom Jacobson would not know anything about, to another man where he would not be so easily traced.

Gentlemen, there is no place in the world so easy to hide in as New York City, from the police, or anyone else, unless a man is a well-known character. The police did not know this man. There was not a policeman on the Bowery, I don't care how many hundreds may have been there, who knew him.

Who did know him that the police knew? George Wright, one boy of seventeen in the City of New York, and no place to look for him excepting the place he was last known to work, Jacobson's, the place where they finally caught him, because he was overconfident; he had been away for nearly a year, and he thought he was safe, that no one would serve him.

Those are the only two people that the police knew besides the four witnesses who saw him on this very afternoon who could identify that man, and not one of them whom he was likely to see, or likely to see him, excepting Jacobson, where they finally got him. That is all. As long as he did not use the name he was known under, as long as he did not meet those five or six people who knew him by sight,

CASE #2110

1361



he was safe from the New York police.

He went down to Wagner, and worked; he worked there as John Smith, and he tells you the reason was he was afraid he could not keep the job if he gave his real name, but Wagner remembered him, as of course he would in a small place of that kind, he knew him as a man who had worked for him, and he said to him right away - the defendant said two or three days later - but he says the same day, "Why, aren't you the man that worked for me as Hendricks?", and he said, "Yes, I am"; and he kept him as Smith. It didn't make any difference to him what his dishwasher called himself.

Then he went to Brooklyn, and counsel thinks this looks pretty badly, so he would like to have you think that Kuypera was his real name, but his real name is Von den Corput, C-o-r- p-u-t, and this name is spelled K-u-y-p-e-r-a on his pay envelope. He says it was Kuipers, and that it ought to have been spelled with an "i" instead of a "y" - it should be K-u-i-p-e-r-s. That certainly is not Corput, or anything like it.

So, he did not go back to his own name.

Then, he even goes down to the United States Consul, and he gets something in the nature of an identification, and the secretary, with whom he talked on the 28th of January, sits here on the stand, and he tells you that Pete Smit might have been his Dutch name, and when this man

CASE #2110



signed his name "S-m-i-t-h", he said, "That is not a Dutch name." He said, "That is my father's name", so he gave him an identification slip.

Now, if he really wanted an identification slip, why didn't he take it in his own name? Did he think that might help him when he got in with the police, to show that he was not Hendricks, or what was the idea in his mind?

I don't know, but there was a systematic sequence of ideas there that led him to make every effort to show to every one he came in contact with that his real name was Smith, and not something else, even to the point of going to the recognized official representative of his country in this city to get a certificate from him that that was his name, and his origin was Dutch.

So, we have got here on the People's side of the case a motive than which there is no stronger <sup>motive</sup>. I think that moved a human being to action, love and jealousy, and we have got an expression of that motive eight weeks before and twenty-four hours before, and communicated both times to the victim who was killed.

We have concealment of identity immediately following the act, and we have four people, four boys, who say, one of them, "This is the man I saw strike this woman", and three of them say, "That is the man I saw running away from the immediate point where the woman was struck."

CASE #2110



I say you could not have a stronger case. I say you seldom see as strong a case as this case is.

And what is the defense? What is the defense? The defendant himself takes the stand. His counsel opens this case and tells you that this man gave this woman money to open this flat, and that man goes on that stand and never says one word about a penny of money passing from him to her, not a word, and counsel's statement is not evidence.

He takes that stand and he tell you of his relations, and of his leaving the house, practically exactly what the People's witnesses say, and denies nothing, excepting that he was there and killed her. You can hardly expect him to admit that.

Then I take him on cross-examination, and about all I did with him was to go through this letter, and you heard his efforts at explanation. You saw his manner on the stand. You men have been dealing with men all your lives, and that is why you are in the jury-box.

You men know, every one of you, how to size up a man who sits there and tells you his story, and you men saw this morning how he acted on that stand, how horribly nervous he was. That is understandable. Any man might be nervous in his position.

You saw how he tried to explain around his phrases in his letter. You saw how unreasonable many of those explana-

CASE #2110



tions were, and how, where they had a chance to be damaging to him, how he gave an explanation, however lacking in plausability it was, that would let him out.

And then you saw the last thing that happened on his cross-examination. You saw me walk up to him here with the waist of this woman in my hand. You saw me hold it up to him, because I wanted to see how he would act when he saw it, and you saw him then give himself right away on that stand. You saw his voice, which was low before, drop so it was absolutely inaudible; I couldn't hear it standing right beside him, and you couldn't hear a word of it. You saw him turn the color of this paper, and you saw him slouch right down in his chair, and then you saw him, almost under his breath, deny that he stabbed her in the street.

That was not a pleasing thing to do, gentlemen, but it was a necessary thing to do, and you heard him first say that she wore a blue dress the last time he saw her, when he gave her that letter, and then, when I showed him that garment, the first thing he said was he thought that was it.

Now, there is the whole story of this case, and there is the whole defense. Not one word substantiating the defendant's story. Overwhelming circumstances against him, circumstances enough to warrant his conviction without the identification witnesses, and, added to that, the iden-

CASE #2110



tification witnesses, four of them who swear that he is the man.

There is one other thing in this case, and that to my mind shows what the motive in this case was more strongly than anything else in the case, and that is the photograph and the candy frame that this man put around it last Easter. That shows what his mind was dwelling on, not only before this murder, but after it. That shows, maybe, regret for what he had done. It shows that the motive and the moving impulse in this case was love and jealousy.

Do you suppose, if that man had loved that woman as counsel tells you he did, to the extent of making for her picture this frame that counsel comments on, during his idle moments, in the candy factory last Easter, that he would have stayed away from her, under an assumed name, after writing her that letter, and never have gone back to ask an answer from the day she died, if he did not know that she was dead?

Do you think that he would have stayed away from her if, as he says on the stand, he never learned of that woman's death until the police had him, last September?

Why, the ten days in the Workhouse couldn't keep him away from her. The admonition of the Judge couldn't keep him away from her. The admonition of the police couldn't keep him away from her. His own knowledge that his own safety

CASE #2110



depended on his keeping away from her could not keep him away from her. Nothing could keep him away from her but death, and nothing would have kept him away from her excepting death; and neither would he have killed her if he could have been with her.

Can't you see the picture as it is given you by Fenn?

Can't you see this woman coming back after her work that afternoon to meet her boy, between three and half past three, at 118 East Fifty-third street? Can't you see her walking along, coming home, knowing he was waiting for her, and can't you see this man stopping her on the street there and saying to her, "Barbara, where is your answer to my letter?"

Can't you see her saying to him, "I want nothing more to do with you", as they stand there and talk? Can't you hear him threatening her, and reaching into his pocket, she knowing that it is his tendency to use a knife? Can't you see her back off, still facing him, watching him as she backs away from him, and can't you see him follow her up as they come in behind Fenn's wagon? Can't you see him strike her once and strike the bone and fail to do any injury? Can't you see him strike her again and give her the wound in the heart, and then she drop, just as she comes back into Fenn's line of vision, with a stab wound in the heart, drop right there by the sewer plate? And, to make assurance doubly sure, he strikes her once more in the throat,

CASE #2110



finishes the job, and then turns and runs.

And, gentlemen, when you come to consider the evidence in this case, you have got to consider the degree of this crime. I simply want to call your attention to one other thing in Mr. Moore's argument, and that was this: He told you that the Grecke woman, who occupied the house at 114, said that shortly after this occurrence Mrs. Anderson left. She did not say that. She said that Mrs. Anderson remained in that house until the middle of March, 1915, and I am going to read you her testimony, so there will be absolutely no doubt about it. Page 124.

"Q. Did you ever see him around the neighborhood again after that?" - that is, after the killing. Her answer, "Never".

She is the janitress of the building. He said he went back to get his clothes. She says she never saw him after Mrs. Wright died.

Then I said, "How long did Mrs. Anderson remain in the house after that?", and her answer was, "The middle of March, 1915."

Barbara Wright was killed in October, 1914. Five months later Mrs Anderson moved out, five months afterwards, and he never came back for his clothes.

Now, when you come, gentlemen, to consider the degree of this crime, I am only going to talk to you about one de-

CASE #2110



gree, because I can only see one degree.

The law says, as I think his Honor will charge you here, murder in the first degree is a deliberate - is the killing of a human being, when not justifiable or excusable, and there is no claim in this case it was either justifiable or excusable, with a design to effect death, which is deliberate and premeditated.

Now, here is a man who has lived with his victim, who has left her, been put out of her rooms by the police, and has said when put out, "I will kill either you or your son if I am put out of this house".

Here is a man who comes back to that house five separate times, and on one occasion is arrested and sent to the Work house for ten days for carrying a knife. That is done on the complaint of the very woman that he afterwards kills.

Here is a man who writes her this letter, in which he says, "There is some one who will not stand for this sort of thing", and then begs for another chance, and after that meets this woman there on the street, talks to her, and, when he can't have his way, kills her.

Do you want any more evidence of premeditation and deliberation than that? That was what that man had been brooding over for two months. That was what he brooded on when he was in the Workhouse for ten days. That was what he was thinking of every time he went back to see her after-

CASE #2110



wards. That is what he thought of every time he met her on the street, and that is what he meant when he said, "There is some one who will not stand for this sort of thing. Don't fool with this thing, believe me kid. There is somebody who won't stand for it. Give me another chance. Let me come back."

And then he meets her on that street, and talks in the same line as his letter is written, begs for another chance, and she says, "No, I am through with you".

Then he draws his knife from his pocket, and opens the blade, unless he has it in his pocket already opened, which would be further evidence of preparedness for this very act, but he has to draw his knife and open it, we will say, and he has to follow that woman out into the street, as Fenn saw him follow her, and he strikes her once, and fails; and he strikes her a second time, and she falls, and, to make his job certain, he leans over and stabs her the third time and inflicts two mortal wounds out of three.

Is there any room for discussion? Is there any room for controversy? If some man might say, "He did not mean to kill her when he went there, because he wanted to get her back", that is pretty far fetched, but it is possible, because it is inconceivable to my mind how he could have done but one thing - to go there with the intention of either getting her back or, if he did not, killing her.

CASE #2110



But, let us ask, if he went there only meaning to get her back, and then he draws the knife, meaning to use it, meaning to kill her, he opens it meaning to kill her, he

follows her out into the street, meaning to kill her, he stabs her once and fails to kill her, he still means to when he follows up his intention; he stabs her a second time, and he kills her and doesn't know it. She drops to the ground, and, to be sure that he has killed her, he cuts her carotid artery and the jugular vein with the third blow.

If he never dreamed of killing her until he got on the sidewalk, there is more than enough there, there is more than enough there to show a deliberate and premeditated design to kill.

"But you can't take that act, you can't piece it together with what went before, you can't piece it together with his former conduct, without making up your minds as reasonable men, that he went there with one object in his mind, either to get that woman back or leave that woman dead.

Now, gentlemen, that is the case, and, with a few more words, my duties are done, and yours begins, as soon as the Court has charged you; but I want to impress one thing on your minds and that is the importance of your duties.

It is not uncommon in this day and generation to hear criticism of the criminal courts and the criminal prosecutor, but you never hear it of the jurors, for the jurors are the

CASE #2110



men who enforce the criminal law. No prosecutor can enforce it, no judge can enforce it. It is right up to the twelve men in the jury box.

All the prosecutor can do is to present the facts. That he is sworn to do, and that is his duty. All the Court can do is to charge the jury the law, and the jury decides the case.

If the jury says, "We won't enforce this law", no human agency can enforce it under our system, but if the jury does enforce the law everybody soon comes to know that they will do it.

You are sworn to enforce the law. Of course, every juror does so, and the responsibility for its enforcement is on your shoulders, and not on anybody else's.

If you think that this man did this act, from the evidence, beyond a reasonable doubt, it is your duty to convict him, and if, so thinking, you acquit him, nobody else can take your place and enforce that law, and it is on no one's consciences but yours. The responsibility is all yours. I have done all I know how to do in this case to present it to you. The Court will do all his duty in giving you the law, and all I want to impress upon your minds is this: That you have got to bear that responsibility, and you have got to do your duty. If you do it, and do it in accordance with your consciences, nobody can complain of

CASE #2110



you, and your consciences cannot hurt you, but if you don't do it, through sympathy or any other outside feeling outside of this case, be men enough to stand up and say you didn't do your duty, and the fault is yours, and don't let some one else in your presence put it on some one else's shoulders.

THE COURT: Gentlemen of the Jury, do not discuss the case, nor form nor express any opinion on it, but keep your minds open and free until it is submitted to you. I will ask you to be in your places tomorrow morning at half past ten.

(The Court then accordingly took a recess until tomorrow, Friday, October 22nd, 1915, at 10:30 A.M.).

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CASE #2110

1373



THE PEOPLE, ETC., vs.

320

PETRIUS C. Von den CORPUT.

New York, Friday, October 22nd, 1915.

TRIAL CONTINUED

THE COURT'S CHARGE

MALONE, J.:

Gentlemen of the Jury:

I hope that I have a proper appreciation of the obligation which rests upon you. To my mind, you are engaged perhaps this morning in as important a work as man can ever be called to act upon. Each one of you, when you were taken by the Counsel in this case as jurors to try it, stated that you had not prejudged it, that you were not conscious of any bias that you had to either party, that you had no opinion which could prevent you from returning a verdict in the case according to the law and the evidence. You stated to Mr. Edwards and Mr. Moore that you were prepared to stand right between The People of the State and the defendant at the bar, and that you would well and truly try the issue that has been raised here by the indictment and the defendant's plea of not guilty.

That is the proper attitude for men to take, embarked upon such a work. A trial, of course, would be a farce if jurors were to sit upon it who had prejudged it. A great many citizens brought here have been examined by

CASE #2110



Counsel before you were selected to pass upon this important question. great care was taken in your selection. That is as it should be.

You are here investigating the death of a citizen. The life and the liberty of another citizen may be involved in the matter that you have at hand. The law and the administration of public justice is also a matter of just as much consequence.

Now, the principles of law which are in this case and for which the Court is responsible are very few. I think they are plain and simple. It will be my purpose to consider the rules of law by which the case is to be governed, rather than to make any extended marshaling of the evidence.

We are living here in this City under a government of laws. By distribution of the powers of government, the existence and exercise of which are essential to the well being of the community, our constitution has entrusted to the law-making power the responsibility of making laws, defining them and prescribing appropriate punishment for their violation. And whatever may be the view of any or all of us upon the subject of punishment appropriate to any offence, it is not our duty to consider it here, but it is our duty to take and carry the law out and administer it truly and fairly as it is written.

CASE #2110

1373



It is the appropriate province of the Court to expound what the law is, and to apply it to particular cases.

There is still another subdivision of duties that applies in the administration of the law of the land. I mean the relations that the Court and Jury have to it. Each has power under the law, and the power of each is limited by law. The Court is responsible for its duty. The Jury is responsible for its duty.

Now, as I said, it is the duty of the Court to determine what are the proper rules of law to apply to the case, to superintend the conduct of it, to determine what is relevant and competent in the inquiry, and in the event of an adverse judgment to apply an appropriate judgment within the law of the State.

It becomes the duty of the Jury to take all the evidence into consideration, to weigh it impartially, to apply their best judgment to the discovery of the truth, and then to declare it by the verdict.

Now, the word "verdict" itself is made up of two abbreviated Latin words, meaning the declaration of the truth. That is the function of the Jury, to declare the truth with reference to the issue.

If each one of us, the Court and the Jury, keeps within proper boundaries fixed by the law, it would seem that the law would be administered in accordance with the

CASE #2110

1376



true theory, and everything would be done which can properly be done for the detection and punishment of those who are guilty of crime, as well as for the security and the protection of those who are innocent of crime.

Your duties as jurors are important, and they are arduous. While they are arduous, painful perhaps, they become necessary duties, and every citizen in his turn is likely to be called upon for a similar performance.

It is your duty and it is my duty to enforce the laws as I stated them to you, as we find them. Even though we should sympathize with a person, no matter who the person may be, whether he be high or low, whether he be rich or poor, when he is brought here to the bar of this Court, charged with the commission of a criminal offence, we would of course be unworthy to occupy the positions which we do occupy if we were to permit our partialities or our sympathies to get into the equation and perhaps overcome our judgment.

The defendant is presumed to be innocent of the offence that is charged against him unless his guilt has been brought home to him beyond reasonable doubt. That applies to all criminal cases. The burden of proving the case falls upon The People of the State, and up to the standard that I have stated, that is, proof of his guilt beyond reasonable doubt;— and I wish to say to you,

CASE #2110

1377



and shall say to you in relation to every part of the case, and you will take it with you as part of every instruction in relation to any fact, that The People must satisfy you of that fact upon which they rely beyond reasonable doubt. By that I mean that the evidence must be such as to carry conviction to your minds, and to such an extent that in the important affairs of your own lives you would act upon them as true and as established.

When a fact is proved up to the extent that men of intelligence and reason are satisfied of its existence and that they would in the important affairs of their own lives act upon it as true, then it is established and established beyond reasonable doubt.

Now, this case here has been tried within a very short time, and it has been tried, gentlemen of the Jury, with great ability and with great fidelity. There has been no needless wrangling between Counsel, but in a calm, proper atmosphere the evidence has been drawn out most intelligently and concisely. That is the way a case should be tried, and I think juries are much aided when they are free from unseemly wrangling on the part of Counsel.

It remains for me now in the discharge of my duty to instruct you upon the law of the case, and when I shall have done that the responsibility falls upon your shoulders.

CASE #2110

1378



It is for you, then, if you believe the defendant at the bar to be guilty, to pronounce him so, and to turn him over to the law for the consequences of his crime; or if you believe that he is not guilty, or if you have reasonable doubt of it, to say so and to forever discharge him from accountability to any human tribunal for the crime with which he is charged. Let me, however, impress upon you that you ought not to be influenced by any improper external considerations.

Petrius C. Von den Corput, otherwise called John Hendricks, has been indicted by the grand jury and charged with the commission of the crime of murder in the first degree. It is laid in the indictment that the offence was committed in the County of New York on the 28th day of October, 1914; that on that day he feloniously and with malice aforethought killed Barbara Wright, by inflicting a mortal wound upon her with a knife, from which her death was caused.

To that indictment he has pleaded not guilty, and you have been, as I stated, impaneled here to investigate the merits of the case and to return a proper verdict.

The indictment is in the Common Law form in one count. It charges the killing to have been done wilfully, feloniously and with malice aforethought.

CASE #2110

1379



Now, the matter of the indictment and its form is a legal matter, and when such matters are brought into controversy it becomes the duty of the Court to pass upon them. There has been no controversy upon that subject here, and I hold, as a matter of law, that this indictment is proper in form, that it contains a plain and concise statement of the act constituting the crime, and that it comes within one of the Statutory definitions of murder in the first degree, to which I shall call your attention.

I am going to submit this case to you under the first subdivision of Section 1044 of the Penal Law, defining the crime of murder in the first degree, in this way:

The killing of a human being, unless it is excusable or justifiable, is murder in the first degree when committed, first, from a deliberate and premeditated design to effect the death of the person killed or of another.

Murder in the second degree is defined in this way: Such killing of a human being is murder in the second degree when committed with a design to effect the death of the person killed or of another, but without deliberation and premeditation.

Manslaughter in the first degree is defined in this way: Such homicide is manslaughter in the first degree when committed without a design to effect death, ; x x x

CASE #2110

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2. In the heat of passion, but in a cruel and unusual manner, or by means of a dangerous weapon.

Manslaughter in the second degree is defined in this way: Such homicide is manslaughter in the second degree when committed without a design to effect death, in the heat of passion, but not by a dangerous weapon, or by the use of means either cruel or unusual.

Now, gentlemen of the jury, I have defined to you the several degrees of homicide.

The defendant, as I have said to you, is charged with murder in the first degree, and it is argued by the learned Counsel for The People of the State that that degree of homicide has been proven here.

It is for you to say from the evidence and from the law what the facts are, whether the crime has been established and proven against the defendant.

If you conclude that it has been, you will then determine for yourselves the degree of the crime, bearing in mind that upon the subject of the degree, as well as upon the main subject of the crime itself, the defendant must have the benefit of any reasonable doubt.

In that connection, I should say to you that your verdict here should be in accordance, of course, with the evidence and the law.

It would be considered, of course, outrageous for a

CASE #2110



jury to find a defendant guilty of a higher degree of crime when the law and the evidence required the finding of a lower degree of crime; yet it would not be any less illogical and improper for a jury to find a defendant guilty of a lower degree of crime if his guilt was plainly established by the proof to be that of a higher degree of crime. Get that well into your minds.

*start*  
To constitute murder in the first degree, there must not only be an intention to kill, but there must also be a deliberate and premeditated design to kill. Such design must precede the killing by some appreciable space of time, but the time need not be long. It must be sufficient for some reflection or consideration upon the matter, for the choice to kill or not to kill, and for the formation of a definite purpose to kill.

The human <sup>minds</sup> ~~mind~~ acts differently; some/slowly, some rapidly; and whether a deliberate or premeditated design to kill was formed must be determined from all the surrounding circumstances.

As to the question of intent, in capital cases as well as in other cases, it must be held that a person intends what is the natural and necessary consequences of his act. And, unless the act was done under circumstances

CASE #2110



which preclude the existence of such an intent the jury have the right to find from the result produced an intention to effect it.

Whenever intent is made an element in determining the character of an act, it is in accordance with our observation and experience to infer its existence by reference to the laws which have usually and generally been found to control human conduct. Indeed, that is the only method in which the intent can be made to appear.

The intent formed is the secret and silent operation of the human mind, and its only physical manifestations are in the accomplishment of the thing determined upon.

The person whose intent is sought to be ascertained may remain quiescent, silent about it, or if he speaks he may, and he probably will, if he has a crime to conceal, speak untruly about it, and thus the mind is compelled from necessity to revert to the actual physical manifestations of the intent exhibited by the result produced, and that as the safest if not the only proof of the fact to be ascertained.

This rule is always applied unless from the circumstances of the case it affirmatively appears that the will of the person was subordinated to some controlling and irresistible cause which precluded the existence of a voluntary mental action.

CASE #2110



It is, however, a fundamental rule of evidence of general application, founded upon the best observation and experience, that men are presumed to intend the natural consequences of their acts. To infer the existence of deliberation and premeditation, it does not require the lapse of any particular length of time.

If a person is not stirred by sudden and uncontrollable emotions, not excited by an unexpected cause, and is in possession of his faculties, it will be presumed that his actions are prompted by reason, and are the result of causes operating upon his mind and deemed sufficient to inspire the action.

If a person, meeting a stranger upon the street, in the absence of a sudden impulse, produced from some observable cause, without any word of explanation or warning, draws a knife, perhaps, and uses it upon him, causing his death, he <sup>may</sup> unquestionably bring himself within the penalties prescribed for the punishment of the crime of murder in the first degree.

The shortness of time elapsing between the conception of the intention and its execution forms no legal defense for the crime.

The cause of death of Barbara Wright was testified to by Dr. Lehane, a physician attached to the Coroner's office. He says that on his examination of her body

CASE #2110



he found three stab wounds; number one was on the right side of the neck, two inches in length; number two was one and one-half inches in length, on the left side, midway between the left nipple and the median line; number three was a superficial flesh wound, which was to the right of number two.

Doctor Lehane said that, in his opinion, Barbara Wright came to her death from a stab wound of the heart. There seems to be no controversy upon that subject, and it is frankly conceded.

The important question for you, therefore, is, were these wounds inflicted by Petrus C. Von den Corput? If you answer in the affirmative, the next question for you to take up will be, was that murder in the first degree?

Premeditation and deliberation, which is essential to make out the crime, means that between the forming of the intent to kill and the act itself, whether the time be long, or short, there was some deliberation and reflection, some thought upon the contemplated act.

The law, as I stated to you, does not fix any time to be covered by such premeditation and deliberation. It may be a long period of time, or it may be only a moment or a second of time.

The deliberation and premeditation over an act that

CASE #2110



results in the death of another may exist for a week, or a month, or a year. A person may brood over it and think about it and wait about it for a long period of time before he carries out the plan to execute his intention.

The law also says that it may exist in a very short period of time. It may cover a moment only. If there is sufficient time for the accused to think of the act, to consider it and to determine upon it, no matter what the length of time is, that element of the crime is made out.

In other words, some time for reflection and thought, some opportunity for decision to do the thing, <sup>or not</sup> to do the act which results in the death of the person killed.

+ If there is opportunity for the making of a choice, and the choice is made, with full opportunity to do otherwise, then the law says that deliberation and premeditation which is necessary to make out the crime of murder in the first degree, is present.

Now, upon the subject of the evidence that you have listened to here, you have had two kinds of proof, that which comes from positive, direct evidence, and that which comes from a circumstantial source, popularly called circumstantial evidence.

There is great confusion, I think, in the minds of most men upon the subject of circumstantial evidence, and frequently we think that proof is established by direct

CASE #2110



evidence when upon examination and analysis we find that in law it is circumstantial evidence.

To take an illustration, an alibi would be considered, I think, by most men as perhaps direct evidence. If a person proved that at the time it was charged he committed an offence he was in San Francisco, and the offence was committed in New York, it would be thought that that was direct evidence. Of course, it is not. The proof of that fact, that a person charged with the commission of a crime in New York was in San Francisco, would be the proof of a fact from which men would properly and irresistably infer that he could not possibly commit the crime because of the difference in the situations and localities.

I mention this simply as an illustration of what is rather a popular confusion in determining what kind of evidence is being applied.

All evidence is, in a strict sense, more or less circumstantial, whether it consists in facts which permit the inference of guilt, or whether given by eye witnesses of the occurrence, for the testimony of eye witnesses is, of course, based upon circumstances more or less distinctly and directly observed; but, of course, there is a difference between evidence consisting in facts of a peculiar nature, and hence giving rise to presumption, and evidence which is direct, as consisting in the positive testimony

CASE #2110



of eye witnesses; and the difference is material according to the degree of exactness and relevancy, the weight of the circumstances and the credibility of the witnesses.

The mind may be reluctant to conclude upon the issue of guilt in a criminal case upon evidence which is not direct, and yet when the facts brought out, taken together, all point in one direction, and that direction guilt, and to the exclusion of any other hypothesis, there is no substantial reason for any reluctance.

Purely circumstantial evidence may be sometimes even more satisfactory and a safer form of evidence, for it must rest upon facts which, to prove the truth of the charge, must collectively tend to establish the guilt of the accused.

A fact has the sense of and is equivalent to a proof of that which is real. It is in the ingenious combination of facts that they may be made to deceive or to express what is not the truth. In the evidence of eye witnesses to prove the facts of an occurrence, we are not guaranteed against mistake and falsehood or the distortion of truth by exaggeration or prejudice, but when we are dealing with a number of established facts if upon arranging and examining and weighing them all in our minds we reach only the conclusion of guilt, then the judgment rests upon pillars quite as substantial and sound as

CASE #2110



those resting upon the testimony of eye witnesses.

The necessity of resorting to circumstantial evidence in criminal cases is apparent in the nature of things, for the criminal act is sought to be performed in secrecy, and a person who intends to do wrong usually chooses his time and the occasion most favorable to concealment, and sedulously schemes to render his detection impossible.

All, therefore, that you should require of circumstantial evidence is that there should be positive proof of the facts from which the inference of guilt is to be drawn, and that the inference that you do draw is the only one which can be reasonably drawn from those facts.

I have said thus much to you upon the subject generally of circumstantial evidence because you have some evidence of that description in this case, and some evidence of a direct nature.

You have had here in argument of Counsel reference to the motives actuating the parties in this transaction. A motive is an inducement in law and that which leads or tempts the mind to indulge the criminal act. It is resorted to as a means of arriving at an ultimate fact, not for the purpose of explaining the reason of the criminal act which has been clearly proven, but for the important aid it may render in completing the proof of the commission of the act when it might otherwise remain in doubt.

CASE #2110



With motives in any speculative sense neither the law nor the tribunal which administers it has any concern. It is in cases of proof of circumstantial evidence that the evidence of motive becomes not only very material but controlling, and in such cases the facts from which it must be inferred must be proven. It cannot be imagined any more than any other circumstance of the case.

The motive attributed to an accused person in any case must have some legal or logical relation to the criminal act according to known rules and principles of human conduct. If it has no such relation, or if it points in one direction as well as in the other, it cannot be considered a legitimate part of the proof.

In the argument of Counsel in this case, you have heard considerable upon the subject of the defendant's flight. I think it, therefore, important for me to advise you what the law is upon that subject.

Evidence of flight is competent because, when unexplained, it tends to show a consciousness of guilt, although standing alone it raises no legal presumption thereof. When a crime is proved, but the identity of the criminal is in doubt, it bears somewhat on the question of identity. Ordinarily it is of slight value, and of none whatever unless there are facts pointing to the motive which prompted it, and hence any explanation of the accused

CASE #2110



should always be considered by a jury in connection therewith. They are circumstances to be considered and weighed in connection with other proof with that caution and circumspection which their inconclusiveness when standing alone require.

It is not contended here by the learned Counsel for the defendant that the defendant was defending himself when Barbara Wright met her death. There is no defence of self defence interposed here, but it is urged upon you that the defendant was not present when Barbara Wright lost her life by criminal agency. That is the defence of an alibi.

Alibi, in law, means a defence interposed by a defendant by which it is proven that at the time of the commission of the offence he was at some other place than where it was committed.

It is obviously essential to the satisfactory proof of an alibi that it should cover the whole of the transaction in question, so as to render it impossible that the person charged could have committed the act. It is not enough that it renders his guilt improbable merely.

Of all kinds of exculpatory defences that of an alibi, if clearly established by unsuspected testimony, is the most satisfactory and conclusive, for it is absolutely incompatible with the possibility of the truth of the charge.

CASE #2110



The defence, however, is sometimes made up, and resorted to falsely. It is sometimes entertained with distrust, but, however it may lie under some prejudice, and should be heard with caution, yet, if it appears, gentlemen, to be founded in truth, it is the best negative evidence that can be offered, and in many cases it is the only evidence which an innocent man can offer.

Upon this subject, therefore, I charge you, and I do it to meet a suggestion made by Counsel for the defendant at the threshold of the case that he was going to ask me to substantially charge you that in the consideration of the evidence of an alibi, even though it falls short of the weight of moral certainty, yet if it leaves the mind of the Jury in such doubt or uncertainty that if, taken by itself, they could not find for or against an alibi, then the Jury must carry such doubt into the case of the prosecution and weigh it there as an element of reasonable doubt, beyond which the prosecution must establish guilt, that the defendant is entitled as much to the benefit of such doubt as to any other doubt raised by the evidence, and if its weight alone, or with any other doubt, be sufficient to raise a doubt of the defendant's guilt, the Jury must acquit him.

I think, Mr. Moore, that meets the suggestion that you made at the early part of the trial ?

CASE #2110



MR. MOORE: Yes, your Honor.

THE COURT: Now, gentlemen, I am going to state some of the things that some of these witnesses have testified to during this trial. I want to impress upon you, however, that it is not my opinion of the facts or statement of the facts <sup>that</sup> is of consequence. It is your recollection and determination of what the facts are that controls.

Whatever Counsel or the Court may think and state as being facts is not consequential, because neither are responsible for a determination of them. You are made by the law the absolute, uncontrolled judges of the facts of the case and the weight of them and the credibility of the witnesses.

Perhaps it may be somewhat helpful if I mention some of the things that seem to me to have been testified to during the trial of the case, and to leave to you the control not only of what I say with reference to them but of all the testimony that has been given here.

Police Officer Curry, said that about a quarter past three on the afternoon of the 28th day of October of last year, he went to Fifty-third Street, and at about one hundred feet east of Park Avenue he found Barbara Wright lying upon the surface of the roadway, some three or four feet from the curb. That in one of the pockets

CASE #2110



of her clothing he found a letter, which has been received here in evidence.

George Isaac Fenn, a young man about seventeen years of age, working for Charles & Company, says that he was with his wagon at Fifty-third Street between Park and Lexington Avenues, standing up against the fence; that his wagon was in the gutter, and while there on this afternoon he saw a man and woman standing on the sidewalk talking together. That he saw the woman backing into the gutter; that it seemed to him that she tripped over a sewer plate and fell backwards. "I saw the man going right after her. As she fell, I saw the man make a move with his right hand and down towards her neck, but I saw no knife in his hand." That after he hit her he ran up towards Park Avenue, and he ( Fenn ) after him.

He says that when the man went out into the gutter after her his wagon obscured his view; that he followed the man around the corner; that he went down Fifty-second Street toward Lexington Avenue.

Fenn says that he had never seen either the man or the woman before. He saw a messenger boy follow, but he says that the messenger boy went down towards Lexington Avenue.

He also says that he saw another man chase the fleeing man. This young man said that he got a view

CASE #2110



of the defendant's side face, and afterwards, while he was running, a front view of his face.

His testimony has been sifted, upon cross-examination. Some criticism has been indulged in as to his identification of the man; This witness says that the man that he saw running was the defendant at the bar. There has been some criticism also as to his testimony on the subject of the clothes that he saw upon the man running.

Phillip Terrano says that he is seventeen years of age, and that while he was delivering orders given to him by the Sheffield Farms Milk Company he saw this man, referring to the defendant, talking to a woman on the south side of Fifty-third Street. He said that he had never seen the woman before, but had seen the man before. That as he was going into the store, referring to the Sheffield Farms Milk Company, he saw the defendant running and a man running after him; that he went west on Fifty-third Street, toward Park Avenue; that he heard someone calling loudly, and that he went out and saw the man running; that he himself went up towards Park Avenue, but did not see the man any more. Terrano says that he also saw a telegraph boy running after him.

This witness says that the day before, on the north side of Fifty-third Street, he saw the same man, cursing and swearing, and that he was looking over at the building

CASE #2110



on the other side of the street.

This witness says that the person whom he observed on these days is the defendant at the bar. His testimony has been sifted, too, and criticized, upon the subject of his opportunity of view, as to his description of the clothes, the mustache and the color of the mustache of the person that he saw running.

Jerome Conway, the messenger boy, says that he is sixteen years of age, and that he saw a boy on this afternoon running after a man. "They were coming towards Park Avenue, and coming right towards me."

Conway says he got a view of the person when he turned the corner and looked back. He says that that person was the defendant at the bar. The witness too has been criticized as to his identification and the statements that he made with reference to the clothing and general appearance of the person.

Isaac Weinstein, the man who has the stationery and cigar store on Fifty-third Street between Lexington and Third Avenues, says that he was on Fifty-second Street between Lexington Avenue and Park Avenue, walking west on the north side of the street on this afternoon; that he saw a man running from Park Avenue to Lexington Avenue, on the other side from where he was walking.

Weinstein says that the person whom he saw was the same person that he saw the day before in the middle of

CASE #2110



the block between Park Avenue and Lexington Avenue, and is the defendant. He gives you some reason for his observation of the defendant the day before, by saying that there was a large crowd about the defendant, and that his attention was attracted to him for that reason. Weinstein has also been criticized as to the reliability of his identification.

George H. Wright, the son of the deceased, a young man sixteen years of age, says that he knew the defendant about a year before his mother's death; that they were both working together at Mrs. Mark's at Seventy-fifth Street, corner of Broadway; that she took an apartment at 118 East Fifty-third Street sometime in August, 1914; that he knew the defendant as John Hendricks; that he lived with them for about a month; that he took up his connection with them in the early part of September; that at about that time he was arrested and put out of the house.

This witness says that the defendant had said "I will kill you or your son"; that as a result of a quarrel the next morning a policeman was brought to the house, and the defendant put out; that after that time the defendant did not live with them. Young Wright says that he saw the defendant about the neighborhood two or three times afterwards.

The janitress, at 114 East Fifty-fourth Street,

CASE #2110



Madeline Grecke, says that she remembers the day that Mrs Wright was killed; that at that time the defendant was living with a Mrs. Anderson, in the house of which she was janitress; that she saw him there the day before twice; that she never saw him after Mrs. Wright's death or in the neighborhood. Mrs. Grecke says that Mrs. Anderson remained at that place until the middle of March of this year.

Jacob Winitsky, a policeman, says that he met the defendant in the early part of September of last year at the house of Barbara Wright; that he went there at her request, and that as he approached, the defendant ran away and disappeared in the block. Mr. Winitsky says that he was then in uniform. He says that Mrs. Wright came later to him, the same day, and that they both went together to Lexington Avenue, looking for the defendant.

Edward W. Wiessner, a policeman, says that Barbara Wright called the defendant to his attention on the 6th day of September, 1914; that she was accompanied by her son; that this was at Fifty-seventh or Fifty-eighth Street and Park Avenue; that in the presence of the defendant she told him that the defendant had a knife on him; that he searched him and found a knife; that he was put under arrest in consequence, brought to the station house and on his way to the station house the defendant

CASE #2110



told him that he had given Mrs. Wright some money, and that she had not given it back to him. This officer says that the defendant was sent to the workhouse for some ten days for disorderly conduct, and was instructed by the Magistrate to keep away from Barbara Wright. The defendant told Officer Wiessner that he had given Barbara Wright money to furnish a flat, and that when she got the flat furnished she kicked him out.

Alexander Wagner, the man who kept a restaurant at 221 Bowery, says that the defendant worked for him under the name of John Hendricks, first, from the 13th of October, 1913, to the 12th of December of that year; that he was engaged as a pantryman; that he came back to him on the third day of November, 1914, and continued with him until the 18th of January of this year.

Mr. Wagner says that when he came back the second time he gave to him the name of Smith as his name; that he took the matter up with him, the difference in the names, and he says that the defendant told him that he had changed his name to Smith. Mr. Wagner says that that occurred when he first went there, on the first day.

Abraham Jacobson, the owner of the restaurant at 537 Seventh Avenue, says that the defendant worked for him in May, 1913, as a dish washer, and stayed three or four months, under the name of Hendricks, and came back

CASE #2110



in August, 1914, and worked as a night cook, at 626 Eighth Avenue, and worked there two weeks. Mr. Jacobson said the defendant told him then that his girl did not want him to work nights. After a couple of weeks, he was put on as a waiter and cleaner.

Mr. Jacobson says that on the 28th day of October, 1914, the defendant was in his place of business; that he gave him some money, he says fifty cents; that that was about two o'clock, between one and two o'clock.

He said the defendant told him that he would come back to work at seven o'clock that night. This witness says that the defendant did not return, and that the next time he saw him was September 15th, of this year; that he saw him going by 536 Seventh Avenue, corner of Thirty-ninth Street; that he called out to him, and that he entered his place of business; he says that the defendant told him that he had been working at Rockaway. Mr. Jacobson says that he called a police officer, and the defendant was put under arrest.

George T. Valentine, a police officer of the Twenty-ninth Precinct, says that he saw the defendant about the 21st or 22nd day of October, 1914; that he put the defendant out of a hall way, on the complaint of Barbara Wright, who said that he had been bothering her. Mr. Valentine says that that was about a week before the

CASE #2110



death of Barbara Wright.

Adam Doering, a policeman, says that he saw the defendant on the 15th of September of this year, and arrested him, at Jacobson's restaurant; that the defendant told him that he went under the name of Smith, but that his name was Hendricks; that he admitted to him, on his inquiry, that he had had trouble with the woman, who sent him away for ten days to the workhouse for disorderly conduct, but that he had had no trouble with her after that time.

Allan Landvoe, of the Detective Bureau, who had the case under investigation for the Department from the date of the death of Barbara Wright, says that he showed the defendant the letter which has been received in evidence, and that the defendant told him that he was the writer of it.

Mr. Landvoe says he went to the premises of the defendant and found in his dress suit case a picture frame, which has been received here in evidence; that he took the matter up with the defendant, and that the defendant frankly told him that it was the picture of Mrs. Wright, George Wright's mother; that he had made the frame himself in a candy factory around Easter time of this year. Landvoe said that the defendant told him that he loved Mrs. Wright, and even now liked her.

CASE #2110



Gerben Pusthuma, the Secretary to the Consul General of the Netherlands, said that the defendant, in January of this year, asked him for proof that he was a Hollander, and for his naturalization papers. This witness said that he asked the defendant what his name was, and he said Pete Smith; that as he was going to spell it S-m-i-t, the way it is spelled in Dutch, the defendant told him that there was a "th" to it; that that was his father's name, and that he signed it in accordance with that, Peter Smith; that he thereupon issued the identification slip to him.

William Smith, the confectioner, who has a place at Wythe Avenue and South Fourth Street, said the defendant worked for him under the name of Kuypera between December, 1914, and February 15th, 1915.

The defendant, Petrius C. Von den Corput, went upon the stand himself and told you his history. He said he was thirty-five years of age, born in Holland, and had been in the country about four years and a half. He told you the different places that he had worked, and gave you the length of time that he was employed at the different places.

The defendant said that he met Mrs. Wright at a house where they were both employed, she as a waitress and he in some other capacity; that they became friendly,

CASE #2110



and intimate, and went to live together at Fifty-third Street; that they were living together there for four or five weeks.

He told you that some differences arose about that time; that he had been drinking somewhat, and that there were a few other reasons which influenced and directed his conduct. He said that he was put out of the house and charged with some minor offence and sent to the workhouse for it; that he was told by the Magistrate not to have anything to do further with Mrs. Wright, and that he did not after that time annoy her or break the faith that the Magistrate reposed in him.

He said that after he got out of the workhouse he went to reside at 114 East Fifty-third Street, the house of Mrs. Anderson, a few doors away; that he stayed there for some short period of time, I think he said a week and a half; that he liked the neighborhood, and that that was the reason why he went back to it.

He said that he had some differences with Mrs. Anderson about the payment for his room rent, and that in consequence on his return to his room he found that the bed clothes had been taken away, and that he was forced to leave the room. The defendant said that he made efforts afterwards to see Mrs. Anderson, and had returned subsequently to the place, but had not been able

CASE #2110



to see her.

The defendant says that he went to Jacobson's restaurant, and he has told you the time that he was there; that he was paid some small sum of money, twenty-five cents, and <sup>given</sup> some cigarettes, and that for services that he had rendered; that he had no other engagement and made no promise to Jacobson to return; that it was understood the relationship had ceased between them.

He said that he went down town that night and stayed in some lodging house, the name of the place or the exact situation he was not quite sure of. He said that afterwards he returned to Mr. Wagner, who had previously employed him, and sought employment again, and that he gave the name of Smith to him, because he had been discharged under the name of Hendricks, and thought that it might perhaps prejudice him if he returned to work under the name of Hendricks.

He told you that after this employment he went into a candy factory in Brooklyn, and worked there for four or five months.

The defendant denies emphatically that he is guilty of this offence. He says that he had love for the woman, and that he liked her very much, even now.

The defendant said that he wrote the letter which has been received in evidence on the 26th day of October,

CASE #2110



two days before her death, and handed it to her himself, put it in her own hand, either on that day or on the following day, the 27th; that she received him not unkindly, and that there was no trouble or disagreement between them.

The defendant said that he told Mr. Jacobson he had come back from the country when he saw him on the day of his arrest; that that was a story, and that he had not been to the country.

The defendant says that he did not know of the death of Barbara Wright until he was arrested; that he was now wearing the same clothes that he had when he was arrested, and he said that the clothes that he wore on the 26th of October, 1914, was a black suit with a dark blue cap.

The defendant said that he did not go back to this neighborhood on account of the woman, referring to Barbara Wright, because of the unhappy relations that had existed between them; that he had no other reason for staying away, but says that he actually did go back to see Mrs. Anderson a week or two afterwards.

Now, these are some of the matters that it seems to me these witnesses have testified to. It is not all that they have testified to, and you are to consider everything that every one of these witnesses have given in their testimony before you.

CASE #2110



If you are not in thorough accord with my statement of these matters that I have brought to your attention and they do not coincide with your recollection, you will follow your own recollection, and not mine, because the law makes you the absolute, uncontrolled judges of what the facts are and what the testimony is.

The theory of the prosecution is that this defendant committed this crime on the 28th day of October, 1914, and that he was prompted and moved to do it because of anger or of jealousy.

The contention of the learned counsel for the defendant is that the relations between these two persons had been intimate, that he had a warm attachment for Barbara Wright, and that it was of such a nature that it is inconceivable that the defendant could kill the object of his attachment. He argues that that view is supported and sustained by the letter that was written to her a few days before her death, and the picture that he framed with his own hands last Easter and had in his dress suit case.

Well, judge for yourselves, gentlemen, of the arguments of both counsel.

The testimony of the boys and of the newspaper man is to the effect that the defendant is the person who was running away from the scene of the murder when the

CASE #2110



deceased fell and lay dying on the street.

Did they have a fair opportunity of seeing the man, and had any of them seen him before ?

Terrano and the newspaper man said that they had seen the defendant the day before. There has been some contradiction between their testimony as to the dress and general appearance of the person. They are emphatic, however, that the defendant was the man that they saw.

Are their contradictions, gentlemen, with reference to important matters, or do they refer to matters of detail as to which people would be apt to differ ? Have these witnesses any motive or interest in giving their testimony ? Has there been any suggestion that they have been influenced in any way ?

It is argued by The People, and it is for you to say with what force the argument comes, that the relations between these two persons had been intimate and unlawful; that they had had disagreements and quarrels after starting to live together in the flat on Fifty-third Street, which resulted in the defendant's arrest and being sent to the workhouse.

It is argued that the attachment of the defendant was such that, despite the instruction of the Court, he seemed to be unable to keep away from Barbara Wright, and that he had written to her several times for the purpose

CASE #2110



of seeking a reconciliation; that a day or two before her death he had written a letter which was to bring the matter to a crisis.

The defendant argues that the very nature of the letter and the conduct of the defendant must indicate an impossibility for him to commit the crime that is charged against him; that that is established by a reading of the letter and the possession of the picture which he framed after her death.

It is argued by the defendant that the defendant did not annoy her after he was cautioned by the Magistrate, and that he obeyed his instructions; that he did not leave the City of New York during any time elapsing between leaving Fifty-third Street and the day of his arrest, in September of this year; that he went to different places, and was constantly employed; and that that evidence clearly shows that he was not conscious of the commission of any offence.

You may ask yourselves the question why he gave the name of Smith to Wagner and to the Secretary of the Consul General of the Netherlands.

He tells you that he gave it to Wagner because of the difference between them on a prior employment. He says that he gave the name of Smith to the Consul General because of the war.

CASE #2110



The Counsel for The People argues that he constantly lived under the name of Hendricks until the 28th day of October, the date of the murder of Mrs. Wright, and from that time discarded the name in order to shut off a possible pursuit of himself.

You may ask yourselves the question whether there was any reason for his leaving Fifty-third Street at or about the time of this murder. He says that he left it because of this difference with Mrs. Anderson. The People contend that he left it because of the crime that he committed.

You may ask yourselves the question whether he promised Mr. Jacobson to return to work at about seven o'clock that night. Was Jacobson mistaken about it when he said that he did, or is Von den Corput correct about it when he said that the connection was through, and that he did not intend to return? What is there in this? And, if there is anything, consider it and apply it to the case.

You may inquire into the motives which bear upon the killing of Barbara Wright, and you may consider whether the antecedent relations between these persons were in any way associated or connected with it.

I don't know how the facts impress you. Look at them in all their aspects, and determine them for your-

CASE #2110



selves. Take the testimony of all these witnesses and lay it right alongside of your own observation and experience. Try to reconcile the testimony of the different witnesses if you can, and if you cannot, then choose between them.

Make due allowance for honest mistakes and errors that they make, and accept the suggestion that they have committed perjury only because it is necessary for you to do so.

If you believe that a witness intends to tell the truth, you may regard him, unless the contrary is reasonably clear. In weighing witnesses, you may weigh them as you find them, in regard to their intelligence, for you are the Judges of the weight and of the testimony and the credibility of the witnesses.

You are to consider them with reference to their relation to the case, in point of bias or prejudice that they may have with respect to the parties or the subject matter of the investigation.

If you find that they have made any contradictions, you will give consideration to that. You will give consideration to any inconsistent statements that they make; if you find that they have made such, to their knowledge of the facts and their apparent disposition to make true disclosure of the facts.

CASE #2110



You will consider all of the evidence that has been brought to you here carefully and impartially, not only the testimony of the witnesses, but the evidence of the letter and the picture, in view of the consequences to both of the parties here.

You will see that your verdict corresponds with and is justified strictly by the proof. This applies to the whole case and to every part of the case.

No consideration of partiality for the public service or sympathy for the defendant must be permitted to suppress or to control the honest conviction of your judgment. All the facts, gentlemen, are for you, and you must now pass on them.

You will not take, as I said, anyone's view of the facts as your view, whether it is suggested to you by the Court or by the Counsel engaged in the case. You will find the facts for yourselves, and then apply the law to them, both on the question of the guilt of the defendant and the degrees that are involved in the matter.

If you find the defendant guilty of murder in the first degree, your verdict should be "We find the defendant guilty of murder in the first degree."

If you should find him guilty of murder in the second degree, your verdict will be "We find the defendant guilty of murder in the second degree."

CASE #2110



If you should find him guilty of manslaughter in the first degree, your verdict will be "We find the defendant guilty of manslaughter in the first degree."

If you find him not guilty, by reason of the failure of proof on the part of the State, your verdict should be "Not guilty".

The case, gentlemen, is now in your hands. I have taken more time than I should have perhaps, but the case is one of such consequence that it requires full and elaborate consideration on the part of the Court as well as the Jury.

Give to this defendant the benefit of any reasonable doubt that you have. Give to The People of the State of New York a fair, proper and just determination of this important issue.

If the defendant is guilty, you will find him guilty. If you have reasonable doubt of his guilt, you will find him not guilty.

On the subject of the degree, you will give him, as I have stated to you, also the benefit of any doubt that you entertain, if you do entertain any. Drop the degree to the lowest degree that the evidence admits of, mindful, as I stated to you, that your judgment and verdict should be made up from the facts and the law of the case, and should fit in to the facts and the law.

CASE #2110



Take the case into your deliberating room, and determine it impartially and fairly to both sides. May you be directed to the truth! Take the case.

MR. MOORE: If your Honor pleases, before the Jury retires, I wish to say that the defendant consents that the Clerk may give them any exhibits that they desire to call for.

MR. EDWARDS: I was going to ask that that consent be entered on the record.

THE COURT: Is there anything, gentlemen, you would like me to charge the Jury that I have not covered?

MR. MOORE: I think we have no requests, your Honor.

(The Jury then retired, at 12:35 P. M.)

(The Jury return to the Court room, at 3:57 P. M.)

THE CLERK OF THE COURT: Jurors, please rise. Jurors, look upon the defendant. Defendant, look upon the Jurors. Gentlemen of the Jury, have you agreed upon a verdict?

THE FOREMAN OF THE JURY: We have.

THE CLERK: How say you, do you find the defendant guilty, or not guilty?

THE FOREMAN OF THE JURY: We find the defendant guilty of murder in the first degree.

THE CLERK: Harken unto your verdict as it stands recorded! You say you find the defendant guilty of

CASE #2110



murder in the first degree, whereof he is charged, and so say you all.

MR. MOORE: Now, if your Honor pleases, I desire to make a motion to set aside the verdict, upon the ground it is contrary to the evidence, contrary to the law, and upon the exceptions taken during the trial.

THE COURT: Motion denied upon each ground stated. The Stenographer will note exceptions.

MR. MOORE: There is but one sentence, I suppose, which your Honor can impose. Shall we have it now?

THE COURT: Well, I think it would be better to defer it for a day or two. Any day which is satisfactory to you will be agreeable to me.

MR. MOORE: Thursday?

THE COURT: Thursday.

(The defendant is duly sworn, and his pedigree taken.)

THE COURT: The prisoner will be remanded until next Thursday.

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CASE #2110



THE PEOPLE, Etc., vs.  
PETRIUS C. Von den CORPUT.

New York, Thursday, October 28th, 1915.

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

GEORGE N. BROTHERS, Esq., Assistant District Attorney,

For The People.

ROBERT M. MOORE, Esq.,

For the Defendant.

-----  
THE DEFENDANT IS ARRAIGNED AT THE BAR.

MR. BROTHERS: If the Court please, in the case of The People against Petrius C. Von den Corput, alias John Hendricks, we move for the imposition of sentence according to law.

THE CLERK OF THE COURT: Petrius C. Von den Corput, alias John Hendricks, have you any legal cause to show why judgment of death should not now be pronounced against you ?

THE COURT: I have no duty, of course, except an imperative one, to annouce the judgment fixed by law.

The judgment of the Court is that you, Petrius C. Von den Corput, otherwise called John Hendricks, for the murder in the first degree of one Barbara Wright, whereof you are convicted, be, and you hereby are, sentenced to the punishment of death; and it is ordered that, within

CASE #2110



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

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murder in the first degree of one Barbara Wright, whereof  
you are convicted, be, and you hereby are, sentenced to  
the punishment of death; and it is ordered that, within

CASE #2110



ten days after this day's session of Court, the Sheriff of the County of New York deliver you, together with the warrant of this Court, to the Agent and Warden of the State Prison of the State of New York at Sing Sing, where you shall be kept in solitary confinement until the week beginning Monday, the sixth day of December, 1915, and, upon some day within the week so appointed, the said Agent and Warden of the State Prison of the State of New York at Sing Sing is commanded to do execution upon you, Petrus C. Von den Corput, otherwise called John Hendricks, in the mode and manner prescribed by the laws of the State of New York.

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CASE #2110



COURT OF GENERAL SESSIONS OF THE PEACE  
IN AND FOR THE COUNTY OF NEW YORK  
PART FIVE.

-----X  
THE PEOPLE OF THE STATE OF NEW YORK : B e f o r e :-  
-against- : HON. JAMES T. MALONE, J.,  
PETRIUS C. Von den CORPUT, alias : and a Jury.  
JOHN HENDRICKS.  
:  
-----X

New York, Tuesday , October 19th, 1915.

THE DEFENDANT IS INDICTED FOR MURDER IN THE FIRST DEGREE.

INDICTMENT FILED September 21st, 1915.

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

W. H. L. Edwards, Esq., and Deacon Murphy, Esq.,

Assistant District Attorneys, for the People.

Robert M. Moore, Esq., and Martin O'Brien, Esq.,

for the Defendant.

-----  
THE DEFENDANT IS ARRAIGNED AT THE BAR

THE CLERK OF THE COURT: Petrius C. Von den Corput,  
if you desire to challenge an individual juror you must do  
so when he appears and before he is sworn. Do you waive  
the further giving of this notice?

MR. MOORE: Yes.

MR. EDWARDS: May I make an announcement to the  
panel?

CASE #2110



THE COURT: Yes.

MR. EDWARDS: Gentlemen of the Special Panel, this defendant on trial is Petrius C. Von den Corput. He is also known as John Hendricks, and has been known at times as Julius Smith. The name of the deceased, whom he is charged with killing, was Barbara Wright. The place was in front of premises 104 East Fifty-third street, on the street. It occurred on October 28th, 1914, at about between three and four o'clock in the afternoon. The People will call as witnesses Dr. Lehane, the Coroner's Physician; Dr. Rollins, of the Flower Hospital; Officer Michael Curry, of the Twenty-ninth precinct; George Fenn, of 132 East Seventeenth street; Philip Terrano, of 135 West Sixtieth street; Jerome Conway, a messenger boy employed by the Postal-Cable Company, living at 71 West One hundred and First street; Isaac Weinstein, of 225 East Fifty-third street; George H. Wright, a son of the deceased woman, who lives at 228 West One hundred and Forty-ninth street; Mrs. Nadeline Grecke, of 114 East Fifty-third street; Officer Weissner, of the Twenty-ninth Precinct; Officer Winitsky, of the Twenty-ninth Precinct; Officer Valentine, of the Thirty-ninth Precinct; Officer Deering, of the Twenty-second Precinct; Mr. Jacobson, whose address I have not here at the moment; Alexander Wagner, and probably Sergeants Willemese and Landvoe, of the Homicide Squad at Police Headquarters, and a Mr. Pusthuma, Secretary to the consul-general.

CASE #2110



W I L L I A M        W.        C L A R K, being first duly sworn  
and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:-

Q What is your name? A William W. Clark.

Q Where do you live? A 910 Eighth avenue.

Q How long have you been a resident of this County? A  
About thirty-nine years.

Q What is your business? A Oil salesman.

Q Connected with what concern? A Adams Grease and  
Oil Company.

Q How long have you been connected with that concern?

A I formerly was President of the concern, some three years ago.

Q Have you any conscientious scruples which will affect  
your bringing in a verdict of murder in the first degree on  
account of the penalty attached thereto? A No, sir.

Q Do you understand that if you take your place in the jury-  
box it is your duty as a juror to listen to the evidence presented  
to you by the witnesses, and to weigh that carefully? A Yes, sir.

Q You understand that his Honor will charge you as to the  
law? A Yes, sir.

Q You understand that it is your duty to abide by his  
Honor's charge on the law? A Yes, sir.

Q Now, if you are chosen as a juror here, and after you  
have listen to all the evidence, you are convinced beyond a  
reasonable doubt that this defendant was guilty of the crime of

CASE #2110



murder in its first degree, would you say so in your verdict?

A If the evidence showed so.

Q What? A If the evidence showed so.

Q Beyond a reasonable doubt? A Yes, sir.

MR. MURPHY: That is all.

MR. MOORE: No questions.

MR. MURPHY: Challenged by the People.

W. De SAUSSURE TRENHOLM, being first duly sworn and examined  
on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A East Orange, New Jersey, at present.

Q You say you live in East Orange? A At present, yes, sir.

Q Have you a voting residence there, or is your voting residence in New York? A Well, I suppose I forfeited my voting residence here. I have none there.

Q Is that only a Summer residence? A I moved out there the early part of this month, with a view of remaining temporarily.

Q Is your business here in this city? A Yes, sir.

Q What is your business? A Assistant Secretary of the American Bridge Company.

Q How long have you been with that concern? A Fifteen years.

Q Have you any conscientious scruples against the infliction of the death penalty? A No, sir, I have not.

CASE #2110



Q Do you understand the duty of a juror? A I do, sir.

Q Do you know that you are to take the law from the Court, and that you and your fellow jurors are the judges of the facts?

A I do, sir.

Q If you are accepted as a juror, and take your place in the box, and after listening to all the witnesses, are convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in its first degree, will you say so in your verdict? A I would.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Have you ever been a juror in a murder case? A No, sir.

Q Have you in a criminal case of any character? A Yes.

Q How many times? A I served one term in the Criminal Court.

Q In this building? A Yes, I think it was.

Q How long ago? A About ten years ago.

Q Do you know any of the people whose names were mentioned by the District Attorney in his general statement to the jurors?

A No, sir.

Q None of them? A None at all.

Q Would the fact that this defendant was a foreigner prejudice you against him at all? A Not at all.

Q Do you feel that any person has the same rights under our laws as any other person? A Yes, sir, I think so.

CASE #2110



Q You don't know any of the gentlemen who are prosecuting this case, do you? A I do not.

Q Anybody connected with the District Attorney's office, to your knowledge? A The only man I know is Mr. Perkins, and I know him very slightly. I don't think he would know me if I were to meet him.

MR. MOORE: No further questions. Satisfactory to the defendant.

BY THE COURT:

Q Your only residence is in New Jersey at the present time? A Well, I will explain it to you, Judge, perhaps, in detail. I have an apartment in New York that I have occupied for five years, and I have sublet that apartment and gone to Jersey only for a few weeks. My business residence is here, and has been for fifteen years.

Q Do you intend to return to New York? A Shortly, yes, sir.

Q After a short time? A Yes, sir, perhaps at the end of this month, or a few weeks later.

THE COURT: I think it is pretty plain, if you want him, gentlemen.

MR. MURPHY: Satisfactory, your Honor.

MR. MOORE: Satisfactory to the defendant.

(The juror is duly sworn, taking Seat No. 1).

J A M E S L. C R A W F O R D, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

CASE #2110



Q Where do you live? A 50 Cathedral Parkway.

Q How long have you lived there, Mr. Crawford? A About two years.

Q And how long have you been a resident of this county?

A About nine years.

Q Before that, where did you live? A In New Foundland.

Q May I ask your business? A A writer of business literature.

Q What is that? A A writer of business literature, advertising literature.

Q And are you connected with any concern? A No, independent.

V Q Have you any conscientious scruples against the infliction of the death penalty? A I have not.

Q Do you know Mr. Moore, or his associate, Mr. O'Brien?  
A No, never heard of him.

Q Or do you know the defendant? A I don't know him.

Q You understand it is the duty of a juror to take the law from the Court and that, with the other jurors, to determine the facts in the case from the evidence presented by the witnesses? A I understand that.

Q If you are chosen here as a juror, and after listening carefully to all the evidence that is put before you, you are convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in its first degree, would you say so in your verdict? A I would.

CASE #2110



MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q You have not been a juror in a criminal case? A Never.

Q Have you ever been a juror in a criminal case? A No.

Q In a civil case? A No.

Q This is your first appearance as a juror? A My first appearance as a juror.

Q How long have you lived in New York City? A About nine years.

Q Do you know any of the parties whose names were mentioned by the District Attorney in the general statement that he made? A Not one.

Q Do you know any of the gentlemen connected with the prosecution here? A I do not.

Q You know of no reason why you could not sit and render a fair and impartial verdict, do you? A I do not.

MR. MOORE: No further questions.

MR. MURPHY: Satisfactory.

MR. MOORE: Challenged by the defendant.

W I L L I A M E. B O I S E, being first duly affirmed and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 247 West Seventy-second street.

Q How long have you lived there? A Well, legally, about a year.

Q What is your business? A Mill man.

CASE #2110



Q Connected with what concern? A Lumber mills, shingle mills, saw mills.

Q How long have you been in that business? A Twenty-five years or more.

Q Before you lived at 247 West Seventy-second street, where did you live? A North Carolina, Princeton, North Carolina.

Q Born in North Carolina? A No, sir, New York.

Q Have you any conscientious scruples against the infliction of the death penalty? A No, sir.

Q Do you know Mr. Moore, or Mr. O'Brien? A No, sir.

Q Or their client? A No, sir.

Q You understand the duty of a juror is that he takes the law from the Court, and that he, with his other jurors, decides on the facts as they are presented to him by the witnesses? A I do.

Q And if after hearing all the facts and giving them ample consideration, you were convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in its first degree, would you say so in your verdict? A I would.

Q Is there any reason which you know of why you could not give a fair and impartial trial alike to this defendant and the People of the State? A No, sir.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Have you ever been a juror? A Yes, sir.

Q In a criminal case? A Yes, sir.

CASE #2110



Q How many times? A Half a dozen.

Q Ever in a murder case? A Yes, sir.

Q In this city? A Yes, sir.

Q How recently? A Oh, I guess ten years ago.

Q And more than one murder case? A Two.

Q Then, you know it is the duty of a juror to give the defendant the benefit of every reasonable doubt? A Yes, sir.

Q And if you have any doubt you must give <sup>him</sup> the benefit of it and acquit him? A Yes, sir.

Q And you would, would you? A Yes, sir.

Q Do you know any of the people whose names were mentioned by the District Attorney in the general statement to you jurors?  
A I do not.

Q Do you know anybody connected with the District Attorney's office? A I do not.

Q Would you have any prejudice against this defendant because he is a foreigner? A No, sir.

MR. MOORE: No further questions.

MR. MURPHY: Satisfactory.

MR. MOORE: Satisfactory to the defendant.

(The juror is duly affirmed, taking Seat No. 2).

GEORGE A. SUTER, being first duly sworn and examined on the voir-dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 190 Riverside Drive.

Q How long have you lived there, Mr. Suter? A Five years.

CASE #2110



Q Before that where was your residence? A New Rochelle, New York, and New York City.

Q What is your business? A I am not in business.

Q What was your business before you retired? A I am a civil engineer and mechanical engineer.

Q Have you any conscientious scruples against the infliction of the death penalty? A No, sir.

Q Do you know Mr. Moore or Mr. O'Brien, his associate?  
A No, sir.

Q Or their client? A No, sir.

Q If you were convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in its first degree, would you say so in your verdict? A I would.

Q Now, you understand a juror's duty is to sit in the box and listen to the evidence carefully and weigh it, and that he and his fellow jurors are the judges of the facts, and that his Honor from the Bench will charge you as to the law? You understand that, do you? A I do.

Q Will you fit your verdict to the facts as you find them and to the law as his Honor gives it to you, regardless of any sympathy which might be urged upon you by the defendant's counsel? A That would depend upon how much sympathy - I do not quite understand that question. That is a little difficult.

Q Well, it is a little complicated. Will you fit your verdict to the facts as you get them from the witnesses and to the law as his Honor gives it to you? A I will.

CASE #2110



Q And will you be able to go into the box and weigh that evidence carefully and determine on the evidence, and not be swayed by sympathy? A I think so, yes, sir.

Q In other words, you will render a verdict on the facts that are adduced here, and not on any outside considerations?

A I think so, yes sir.

Q Is there any reason that you know of why you would not give a fair and impartial trial to this defendant, as well as to the People? A No, sir.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Do you know any of the persons whose names were mentioned by the District Attorney? A No, sir.

Q You heard them all distinctly? A Yes, sir.

Q Fenn, Weinstein, Terrano, - know none of those, do you? A No, sir.

Q Do you know anybody connected with the District Attorney's office? A No, sir.

Q Have you ever been a juror in a criminal case? A Yes.

Q A murder case? A No, sir.

Q How many times have you been a juror? A Twice.

Q In criminal cases? A Yes, sir.

Q And do you know that it is your duty to take the law from the Court? A Yes, sir.

Q And do you know it is also your duty to acquit the defendant unless you are satisfied beyond every reasonable doubt of

CASE #2110



his guilt? A Yes, sir.

Q And you would do that? A I would.

Q Would you have any prejudice against this defendant because he is a foreigner? A No, sir.

Q You know of no reason then, why you could not act fairly and conscientiously, do you? A No, sir.

MR. MOORE: No further questions.

MR. MURPHY: Satisfactory to the People.

MR. MOORE: Satisfactory to the defendant.

(The juror is duly sworn, taking Seat No. 3.)

✓ C H A R L E S      K.      H A R R I S, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 321 West Ninety-second street.

Q How long have you lived there, Mr. Harris? A Eight years.

Q How long have you been a resident of this county? A About twelve.

Q Before that, where did you live? A Milwaukee.

Q May I ask your business? A Music publisher.

Q Your own concern? A Yes, sir.

Q Been in that business how long? A Twenty-five years.

Q Have you any conscientious scruples against the infliction of the death penalty? A No.

Q Do you understand the duties of a juror? Do you understand what they are? A Yes, sir.

Q If you were sworn and took your seat in the fourth

CASE #2110



chair, would you take the law from the Court? A Yes, sir.

Q And, with your other jurors, determine on the facts?

A Yes, sir.

Q Will you fit your verdict to the facts as you find them and to the law as his Honor gives it to you? A I will.

Q In other words, if you are convinced on the evidence beyond a reasonable doubt of the guilt of this defendant of the crime of murder in its first degree, will you say so in your verdict? A I will.

Q Is there any reason that you know of why you could not give a fair and impartial trial to the defendant and to the People alike? A The only reason is, my health at the present time, that is all, if I could stand it in the box. I have been in the dentist's chair for nearly six months steady, and I have an appointment also this afternoon at 4:30, I have been in great pain continuously. That is my only reason.

THE COURT: I think both of you would be very glad to relieve him, under the circumstances.

MR. MOORE: I think so, your Honor.

(Talesman excused by consent.)

I S A A C C O H E N, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 239 West Twenty-first street.

Q How long have you lived there, Mr. Cohen? A Well, where I am living now, about six months.

CASE #2110



Q Before that, where did you live? A 247 West Fifteenth street.

Q And how long have you been a resident of the County? A Well, twenty-five years.

Q And your business is what? A Cigar manufacturer.

Q Been in that business how long? A Twenty-five years.

Q Where is your place of business? A 128 Eighth avenue.

Q Have you any conscientious scruples against the infliction of the death penalty? A No, sir.

Q Do you know what the duties of a juror are? A Yes, sir.

Q If you are sworn as a juror here and take your seat in the box, will you return a verdict based on the evidence as you hear it from the witnesses and the law as his Honor gives it to you? A Yes, sir.

Q And if you are convinced beyond a reasonable doubt on all the evidence that this defendant is guilty of the crime of murder in its first degree, will you say so in your verdict? A Yes, sir.

Q Is there any reason that you know of why you could not be a fair and impartial juror in this case? A No, sir.

MR. MURPHY: You may examine.

MR. MOORE: No questions.

MR. MURPHY: Challenged by the People.

W I L L I A M      A N G E L O, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

CASE #2110



Q Where do you live? A 122 West Seventieth street.

Q How long have you lived there, Mr. Angelo? A Thirteen years.

Q Been a resident of the County how long? A Forty years.

Q Your business, sir? A Certified accountant.

Q Place of business where? A 29 Broadway.

Q With what firm? A No firm.

Q Have you any conscientious scruples against the infliction of the death penalty? A No, sir.

Q You understand what the duties of a juror are? A Yes.

Q If you are accepted as a juror here, will you take the facts as the witnesses give them to you and the law as his Honor charges it to you, and on those facts and the law return a verdict? A Yes, sir.

Q And if you are convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in the first degree, would you say so in your verdict? A I would.

Q Is there any reason that you know of why you could not be a fair and impartial juror in this case? A No, sir.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Have you ever been a juror in a murder case? A No, sir.

Q Or in any criminal case? A Yes, sir.

Q How many times? A Oh, I couldn't say.

Q What? A A dozen times, perhaps, in the course of years.

Q In this building? A Yes.

CASE #2110



Q How recently did you sit in a criminal case here?

A About two years ago, I guess.

Q How old are you? A Sixty-seven.

Q And you know that it is your duty to give the defendant the benefit of every reasonable doubt? A Yes, sir.

Q And if you have any doubt, and the Court charges you as to whether a defense has been established, or not, you would give the benefit of that doubt, would you? A What is that?

Q I say, if you have a doubt as to whether the defense interposed had been established, or not, would you give the defendant the benefit of that doubt and acquit him? A I don't understand your question. If the defense -

Q There are two sides, of course, to a law suit; there is the prosecution, and the defense? A Yes sir.

Q After you have heard the prosecution, and then after you have heard the defense, and the defense is a denial of the facts, a denial of the killing, for instance, if you had a doubt a doubt whether that defense had been established, would you give the defendant the benefit of it and acquit him?

MR. EDWARDS: I submit that should be a reasonable doubt, not any doubt.

MR. MOORE: Yes.

A The mere fact of a denial does not establish any defense.

Q A mere denial, of course, would not alter the facts, but proof in support of that is what I am talking about. A

CASE #2110



Frankly, I don't understand the drift of your question.

Q I am saying this: We make a general denial here that we did this killing, and when it comes our turn to offer proof on the defense, we are going to offer proof in support of that denial. If After you have heard the proof we have offered, you have a reasonable doubt as to whether we have established the fact of our denial, would you give the defendant the benefit of that doubt and acquit him? A Certainly not.

Q What? A Certainly not.

Q Certainly not? A Give him the benefit of such a doubt as that?

Q What is that? A If I have doubt that you have established your contention, that is not meant to give the defendant the benefit of that doubt, as I understand it.

Q You wouldn't give him the benefit of it? A Certainly not.

Q Would you if the Court charged you it was your duty to give him the benefit of that doubt and acquit him?

MR. EDWARDS: I submit that is an hypothesis that is hardly conceivable. Mr. Moore's question goes to the doubt of the establishment of the defense.

THE COURT: I doubt very much whether he quite understands.

MR. EDWARDS: I confess I don't.

BY THE COURT:

Q Perhaps I may help you a little. Mr. Talesman, this.

CASE #2110



man is on trial for his life, and he is represented by Mr. Moore and another gentleman, who are his counsel. The People of the State of New York are represented by Mr. Edwards and by Mr. Murphy. Both sides are entitled to a fair trial. Both sides are entitled to a legal trial. Your duty, as you stated to counsel, is to determine the facts for yourself, but to be guided by the Judge upon everything that is legal. A Certainly.

Q As to what the law is, and to fit the verdict right into the law and the facts, not partial to the State, not sympathetic to the defendant. If the People do not on the case make out a full case against the defendant of guilt beyond reasonable doubt, he is entitled to an acquittal. If the People of the State of New York make out a clear case that this defendant committed the crime of murder in the first degree, a jury should find him guilty of murder in the first degree, and not out of sympathy drop it to perhaps some other degree. You understand that. A Yes, sir.

Q Sympathy does not belong here, nor does partiality belong here. Now, Mr. Moore inquires whether, if you have a reasonable doubt, after you have heard the defense, on the entire subject, whether you won't give it to the defendant. That is the law. You shall give him the benefit of any reasonable doubt that you have upon the subject. Will you and can you do it? The case must be made out by the State. A Certainly.

Q They must make out the case and up to that standard of proof of his guilt beyond reasonable doubt. If there is a

CASE #2110



reasonable doubt in your mind after you have heard it all, won't you and can't you give it to the defendant? A Certainly, but I don't understand Mr. Moore's question fully.

BY MR. MOORE:

Q Would you have any prejudice against the defense of an alibi? You know what an alibi is, do you not? Have you prejudice against such a defense? A Certainly not.

Q If, after you have heard the whole of the evidence, that offered by the State and that offered by the defense, tending to establish an alibi, if you have a reasonable doubt as to whether or not that alibi had been established, would you give the defendant the benefit of it and acquit him?

MR. EDWARDS: I submit, that is not a fair way of stating that proposition. If, in the whole case he has a reasonable doubt of the defendant's guilt, that is the test. Not whether he has a reasonable doubt as to some particular point in the defense.

MR. MOORE: After hearing all the evidence I shall ask your Honor to charge it - that, after hearing all the evidence - the defense is an alibi - and they have a reasonable doubt on all the evidence as to whether an alibi has been established, they must acquit.

THE COURT: What do you say to the question, Mr. Talesman? You may answer.

THE WITNESS: I don't know how to answer it, your Honor. I don't understand it. I simply don't understand it.

CASE #2110



MR. MOORE: No further questions.

THE COURT: What do you say? Will you take him?

MR. MOORE: I say, no further questions.

MR. MURPHY: Satisfactory to the People.

THE COURT: Will you take him, Mr. Moore?

MR. MOORE: Challenged by the defense.

L O U I S        P.        R U P P, being first duly sworn and  
examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 169 West Ninety-fourth street.

Q How long have you lived there, Mr Rupp? A Five years.

Q Before that, where did you live? A 71 West Seventy-  
first street.

Q How long have you been a resident of the County? A  
Fifty-three years.

Q What is your business? A Chemist.

Q Connected with some concern? A Consulting and experi-  
mental chemist.

Q Been in that business all your life? A Last thirty  
years.

Q Have you any conscientious scruples against the infliction  
of the death penalty? A No.

Q Do you understand if you are chosen as a juror here and  
take your place in the box it is your duty to weigh the evi-  
dence as the witnesses give it to you and determine the true  
facts on that, and then base a verdict on that evidence, to-

CASE #2110



gether with the law as charged by his Honor? A Yes.

Q If after you have heard all the evidence and after the case is all in you are convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in its first degree, would you say so by your verdict? A Yes, sir.

Q Would you permit yourself to be swayed by sympathy or some consideration outside of the evidence? A No.

Q Is there any reason that you know of why you would not be a fair and impartial juror? A No, sir.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q How long have you lived in New York City? A Fifty-three years.

Q How old are you? A Fifty-three years.

Q So, you were born in this city, and live here? A Yes.

Q Have you ever been a juror in a criminal case? A Yes.

Q In a murder case? A Yes, sir.

Q How many times have you been a juror in a murder case?  
A Once.

Q How recently? A Two years ago.

Q In this building? A Yes, sir.

Q Two years ago? A Yes, sir.

Q How many times have you been a juror in a criminal case? A That is all; just once.

Q Then, you know it is the duty of a juror to give the defendant the benefit of every reasonable doubt? A Yes, sir.

CASE #2110



know any of

385

Q Do you/the men whose names were mentioned by the District Attorney in his general remarks to jurors? A No.

Q And you do not know, particularly, Weinstein? A No.

Q Or Fenn? A No, nobody connected with the case.

Q Do you know anybody connected with the District Attorney's office? A No, sir.

Q Have you any prejudice against the defense of an alibi?

A No, sir.

If

Q /After you have heard all the evidence you had a reasonable doubt as to whether the alibi had been established, would you give the defendant the benefit of that doubt and acquit him?

A I would.

MR. MOORE: No further questions.

MR. MURPHY: Satisfactory to the People.

MR. MOORE: Satisfactory.

(The juror is duly sworn, taking Seat No. 4.)

H A R R Y L. G O S S , being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 325 West Ninety-third street.

Q How long have you lived there, Mr. Goss? A Four years.

Q Before that where did you live? A 320 West Ninety-sixth street.

Q Been a resident of this county all your life? A No.

Q How long? A Ten years.

Q What is your business? A Cotton - cotton broker.

CASE #2110



Q Have you any conscientious scruples against the infliction of the death penalty? A None.

Q Have you served as a juror before? A No, sir, I have not.

Q You understand from the examination that has been had here this morning the duties of a juror, generally? A Yes, sir.

Q You know if you are accepted to sit here in the box with your other jurors, you would weigh the evidence as it is presented to you by the witnesses, and then form your own conclusions as to the truth? A Yes, sir.

Q And with those conclusions, coupled with the law as his Honor charges it to you, return a verdict? A Yes, sir.

Q Will you return a verdict based upon the evidence as it is given to you and upon the law as his Honor charges it? A I will try.

Q You will try to do so? A Yes, sir.

Q And if you are convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in its first degree, would you say so in your verdict? A I would.

Q Is there any reason that you know of why you would not be a fair and impartial juror in this case? A None that I know of.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Do you know any of the persons whose names were mentioned by the District Attorney in his general remarks? A I do not.

Q Do you know anybody connected with the District At-

CASE #2110



torney's office? A I do not.

Q Have you ever been a juror? A Never served. I have been summoned.

Q You know the general rule, then, however, that the defendant is presumed to be innocent until he is proven guilty?

A Yes, sir.

Q And you will go into the jury box with that presumption, would you, that he is innocent? A I would.

Q And, unless satisfied beyond a reasonable doubt of his guilt, you would acquit him, would you? A Yes.

Q Have you a prejudice against the defense of an alibi? A None.

Q If after hearing all the evidence you had a reasonable doubt as to whether such a defense had been established, would you give the benefit of that doubt to the defendant, and acquit him? A Yes, sir.

Q Are you married? A I am, yes.

MR. MOORE: No further questions.

MR. MURPHY: Satisfactory to the People.

MR. MOORE: Satisfactory to the defendant.

(The juror is duly sworn, taking Seat No. 5.)

H E N R Y C. R O G E R S, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 240 West One hundred and Second street.

CASE #2110



THE WITNESS: Your Honor, I am very much troubled with weakness of the bladder. Now, I don't object to serving as a juror in the least, but I always like to explain it, because sometimes it seems peculiar when I have to be excused very often.

Q How long have you lived there? A Six years.

Q How long have you been a resident of the county?

A Six years.

Q And before that where did you live? A Brooklyn.

Q Lived in the State of New York all your life? A Yes.

Q Are you in business now? A I am not, no.

Q Before you retired, what business were you in? A Wholesale coal.

Q What concern? A Castner, Kern & Bullock, and for myself.

Q Have you any conscientious scruples against the infliction of the death penalty? A No.

Q If you take your place in this jury box, would you with your other jurors weigh the evidence as it is presented to you by the witnesses? A Yes, sir.

Q And form your conclusions from the facts, and base a verdict on those facts, together with the law as his Honor charges it to you? A I would.

Q And if you are convinced beyond a reasonable doubt of the guilt of the defendant of murder in the first degree, would you say so in your verdict? A I would.

CASE #2110



Q Would you allow yourself to be influenced by sympathy or any outside considerations? A No, sir.

Q Is there any reason that you know of why you would not be a fair and impartial juror? A None that I know of.

MR. MURPHY: You may examine.

MR. MOORE: No questions.

MR. MURPHY: Satisfactory to the People.

MR. MOORE: Challenged by the defendant.

L O U I S J. F E I S, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 745 Riverside Drive.

THE WITNESS: I have not been feeling well for the last few days, and if I could be spared at this time I would appreciate it.

BY THE COURT:

Q What is the nature of your trouble? A My eyes have been bothering me considerable. I have not slept in the last few nights. It has been very painful. I am taking some treatment. I am worn out, and I would appreciate it very much if I could be excused.

(Talesman excused by consent.)

G E O R G E D e W O L F D E A N S, being first duly sworn and examined on the voir dire, testified as follows:

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 327 Edgecomb avenue.

CASE #2110



Q How long have you been a resident of the county? A

Twenty-five years.

Q Are you in business? A What?

Q What is your business? A Freight agent, New York Central Railroad.

Q Have you any conscientious scruples against the infliction of the death penalty? A None.

Q You understand that if you are chosen as a juror here, and take your place in the box and listen to all the witnesses that are brought before you, and determine from their testimony what you believed to be the true facts in the case?

A Yes, sir.

Q You understand his Honor will charge you on the law, and you are to return a verdict on the evidence as it has been presented to you and on the law as his Honor charges it to you? A I do.

Q And if you are convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in its first degree, will you say so in your verdict? A I will.

Q Is there any reason that you know of why you would not be a fair and impartial juror in this trial? A None.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Have you ever been a juror? A Yes.

Q In a murder case? A Yes, sir.

Q How often? A I remember one distinctly. I think I was on two.

CASE #2110



Q Any other criminal cases? A Yes.

Q How long ago was it you were on a murder case? A If I remember correctly, it was about two or three years ago.

Q Was that in this court? A Yes, in this courtroom.

Q Have you any prejudice against the defense of an alibi?

A None.

Q And if in this case the defense of an alibi should be sought to be established, and after hearing all the evidence you had a reasonable doubt as to whether it had been established, would you acquit the defendant? A I would give the defendant the benefit of reasonable doubt.

Q If that doubt existed, just as I say, if he sought to establish the defense of an alibi, and after hearing the whole case, including that defense, you had a reasonable doubt as to whether the alibi had been established, you would acquit him? A If there was any doubt as to his being guilty, I would acquit him.

Q I am asking you if you had a doubt as to whether or not, based on the evidence, as to whether we established the defense, you would acquit him? A Isn't that the same thing?

Q If you think it is the same thing, your answer would be yes? A Well, that is the way I should understand it.

Q You might not have a reasonable doubt as to whether or not the plaintiff had made out their case, standing alone. I want to know whether or not, after hearing their case and hearing our case as well, would you go in the jury box and say, "I

CASE #2110



have a reasonable doubt as to whether he has established this defense, or not"? A Well, he would have the benefit of any reasonable doubt as regards his guilt, absolutely.

Q Do you know any of the persons whose names were mentioned by the District Attorney? A None.

MR. MOORE: No further questions.

MR. MURPHY: Satisfactory to the People.

MR. MOORE: Satisfactory to the defendant.

(The juror is duly sworn, taking Seat No. 6.)

C H A R L E S D e K A Y, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 413 West Twenty-third street.

Q How long have you lived there, Mr. DeKay? A Eighteen years.

Q What is your business? A Writer.

Q For how long a time have you been engaged in that occupation? A About forty- thirty years.

Q Have you any conscientious scruples against the infliction of the death penalty? A No.

Q Do you understand the duties of a juror? A Fairly.

Q Generally. And do you understand that if you are chosen as a juror here you and your fellow jurors are to listen to the evidence as given by the witnesses, and come to a determination as to the true facts in the case? A I do.

Q And you will take that determination as to the true facts

CASE #2110



in the case and apply to it the law as his Honor charges you, and then ~~render a verdict as that~~ law applies to the facts? A Yes.

Q If you are convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in the first degree, would you say so in your verdict? A I will.

Q Is there any reason that you know of why you could not be a fair and impartial juror in this case? A None that I know of.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Have you ever been a juror in a murder case? A Never.

Q In any criminal case? A Not to my knowledge, no.

Q Have you ever been a juror in any case? A Yes, sir.

Q In the Supreme Court? A Federal Court.

Q Criminal cases? A No.

Q Do you know any of the people whose names were mentioned by the District Attorney? A I do not know them.

Q Anybody connected with the District Attorney's office?

A I do not know them.

Q Have you a prejudice against the defense of an alibi?

A None.

Q You know it is your duty to give the defendant the benefit of every reasonable doubt? A Yes.

Q And when you go into the jury box he is presumed to be innocent? A I do.

Q And that presumption will remain with him and in your

CASE #2110



mind, will it, until the State has overcome it beyond a reasonable doubt? A It will.

MR. MOORE: No further questions.

MR. MURPHY: Challenged by the People.

J O H N        W.        J A M E S, being first duly sworn and examined on the voir dire, testified as follows:-

THE WITNESS: I wish to be excused, as I am an election inspector.

THE COURT: You are?

THE WITNESS: Yes, and have been for seven or eight years.

THE COURT: You don't want to serve?

THE WITNESS: I don't want to serve, no sir.

THE COURT: The talesman is entitled to exemption, and he claims his right. He is an inspector of elections, and he is now actually performing that public service.

MR. EDWARDS: Very well.

S O L O N        E.        S U M M E R F I E L D, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 309 West Eighty-sixth street.

Q How long have you lived there? A About a month.

Q Before that, where did you live? A 100 West Eightieth street.

Q You have been a resident of the county for how long?

A Twelve years.

CASE #2110



Q Your business is what? A Manufacturer of silk hosiery.

Q Your own firm? A A corporation.

Q Where is the place of business? A 430 East Fifty-third street.

Q Have you any conscientious scruples against the infliction of the death penalty? A No.

Q Do you know Mr. Moore, or his associate, Mr. O'Brien, or the defendant? A No.

Q Do you know what the duties of a juror are? A Yes, sir.

Q If you are chosen and take your place in the box, will you weigh the evidence as it is presented to you by the witnesses, and determine the true facts together with your other jurors? A Yes, sir.

Q And on that determination of the truth, will you return a verdict, coupled with it the law as charged by his Honor?  
A Yes, sir.

Q And if you find beyond a reasonable doubt that this defendant is guilty of the crime of murder in the first degree, will you say so in your verdict? A Yes, sir.

Q Is there any reason that you know of why you would not be a fair and impartial juror in this case? A No.

Q Have you ever heard or heard of this case? A I don't think I ever have.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Do you know any of the persons whose names were mentioned

CASE #2110



by the District Attorney in his statement to the jurors? A No.

Q Do you know anybody in the District Attorney's office?

A No.

Q Have you ever been a juror in a criminal case? A Yes.

Q Murder case? A Yes, sir.

Q More than once? A More than once.

Q Have you ever been a juror in any other criminal case than that one? A No.

Q How recently was that case? A Three years ago.

Q In this building? A Yes, sir.

Q You understand the defendant is presumed to be innocent?

A Yes, sir.

Q Would you take that presumption with you in the jury box and keep it until you were satisfied beyond a reasonable doubt it no longer existed? A Yes, sir.

Q And you would give him the benefit of every reasonable doubt? A Yes, sir.

Q Have you any prejudice against the defense of an alibi? A No.

Q If, after hearing the whole case you could not say to yourself, deliberating, as to whether or not the defense of an alibi had been established, would you give him the benefit of that and acquit him? A Yes.

MR. MOORE: No further questions.

MR. MURPHY: One question I neglected to ask.

BY MR. MURPHY:

CASE #2110



Q Would you be swayed by sympathy or by any consideration outside of the evidence and the law in your determination of what your verdict would be? A No, sir.

MR. MURPHY: Satisfactory to the People.

MR. MOORE: Satisfactory to the defense.

(The juror is duly sworn, taking Seat No. 7).

W A L T E R        H.        W H E E L E R, being first duly sworn  
and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 2788 Broadway.

Q How long have you lived there, Mr. Wheeler? A About three years.

Q Before that, where did you live? A 547 West End avenue.

Q How long have you been a resident of the County? A About thirty one years.

Q Your business is what? A I have been a resident of the County about thirty-one years.

Q In what business? A General commission, meats and groceries, wholesale.

Q Been in that business how long? A Thirty-one years.

Q Have you any conscientious scruples against the infliction of the death penalty? A I have not.

Q You understand the duties of a juror? A I do.

Q If you are chosen as a juror, will you go into the box and weigh the evidence as it is given you by the witnesses, and determine the true facts in the case? A I would.

CASE #2110



Q And to those facts will you apply the law as the Court gives it to you? A Yes, sir.

Q And will you base a verdict on those facts and the law? A I will.

Q And if you are convinced beyond all reasonable doubt of the guilt of this defendant of the crime of murder in the first degree, will you say so in your verdict? A I will.

Q Would you permit anything like sympathy, or any outside consideration, to sway you? A I should endeavor not to have them.

Q You understand that to be your duty? A I understand that perfectly well.

Q Is there any reason that you know of why you would not be a fair and impartial juror in the case? A I can't think of any. I wish I could.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Do you know any of the persons mentioned by the District Attorney in his remarks in opening the case? A No, I do not.

Q Have you ever been a juror in a criminal case? A I have.

Q How many times? A Three, at least.

Q Murder cases, any of them? A All of them.

Q When was the last one? A Between five and six years ago.

Q You know the defendant is presumed to be innocent? A Yes.

Q And you would accept that presumption, would you, if

CASE #2110



you were chosen as a juror? A Yes, sir.

Q And would that remain with you until you were satisfied beyond a reasonable doubt that it no longer existed? A Yes.

Q Have you any prejudice against the defense of an alibi?

A I have not.

Q If, after hearing the whole case, including that defense, you had a reasonable doubt as to whether the offense had been established, you would acquit the defendant? A I would give the defendant the benefit of a reasonable doubt, understanding the difference between a possible and a reasonable doubt.

Q I am asking you now, if, after hearing all the case, you went to the jury room and you would say honestly to yourself, "Upon this evidence I am unable to determine whether this alibi has, or has not, been established", you would then acquit the defendant? A I would give him the benefit of a reasonable doubt, understanding that perfectly well, but I could not tell what I would do until I was confronted with the special case.

Q Wouldn't you consider, if you had a reasonable doubt as to whether that alibi had been established? A That would come right in under a reasonable doubt, I suppose.

Q If, after you heard all the evidence in this case, and began to weigh it in your jury room, you would say, "I am unable to determine whether this alibi has been established", that would be a reasonable doubt, would it not? A I would say so, yes. I suppose so.

Q And, of course, under those circumstances, you would ac-

CASE #2110



quit the defendant, would you not? A I presume so.

Q Well, would you? A A man can't tell exactly what he would do until confronted with certain circumstances.

Q If, after you went into the jury room and began to weigh the evidence, and you would say, "Upon this whole evidence I am reasonably in doubt as to whether or not this alibi has been established", wouldn't you acquit this defendant? A I presume I would, yes.

Q Don't you know you would? A I think I would.

Q I don't want you to think. Is that as strong as you would put it? A I believe I could do my duty. I have been doing my duty as a juror for thirty years, and understand all the points.

Q I don't question your good intentions, but I simply ask you this question: "Would you do it"? A If there was a reasonable doubt in my mind as to whether the alibi was established, or not established, I would be directed by the Court, I presume, to give the prisoner <sup>the benefit of</sup> that reasonable doubt. I can't define my position any more clearly than that.

Q I understand you would be directed by the Court to give the defendant the benefit of a reasonable doubt, but I put the question again, and I want to know what you would do if, after hearing all the evidence, including the evidence of the defendant pending to establish an alibi, you should say to yourself, in thinking the matter over, "I have a reasonable doubt as to whether or not this alibi has been proven", would you then

CASE #2110



acquit the defendant? A I would.

MR. MOORE: No further questions.

MR. MURPHY: Satisfactory to the People.

MR. MOORE: Challenged by the defendant.

A L F R E D I R E L A N D, being first duly sworn and examined  
on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 326 West Fifteenth street.

Q How long have you lived there, Mr. Ireland? A Ten years.

Q Before that, where did you live? A 83 Fourth avenue,  
nine years.

Q How long have you been a resident of the county? A Forty-  
two years.

Q Your business? A Cork business.

Q And your place of business is where? A 326 West  
Fifteenth street.

Q Have you any conscientious scruples against the infliction  
of the death penalty? A I have not.

Q You understand generally the duties of a juror? A I do.

Q If you are chosen as a juror, will you when you go  
into the box weigh the evidence as it is given you here by the  
witnesses, and come to a determination as to the true facts of  
the case, and to that determination apply the law as the Court  
gives it to you? A Yes, sir.

Q And render a verdict on that? A According to the evi-  
dence.

CASE #2110



Q If you are satisfied beyond a reasonable doubt of the guilt of this defendant of the crime of murder in the first degree, would you say so in your verdict? A Yes, sir.

Q Would you permit any outside influences such as sympathy, to weigh in your mind? A No, sir.

Q Is there any reason that you know of why you could not be a fair and impartial juror? A I do not.

MR. MURPHY: You may examine.

MR. MOORE: No questions.

MR. MURPHY: Challenged by the People.

S I D N E Y S. L E N Z, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 468 Riverside Drive.

Q Lived there how long? A About two years.

Q Before that, where did you live? A Twenty-second street.

Q Been a resident of the County how long? A About thirty years.

Q And your business is what? A Retired.

Q Before you retired, what was your business? A I was in the lumber business.

Q Have you any conscientious scruples against the infliction of the death penalty? A No, sir.

Q You understand generally the duties of a juror? A Yes.

Q Take the facts from the witnesses and the law from the Court? A Yes, sir.

CASE #2110



Q Will you return a verdict fitting the facts and the law to the verdict? A I believe I would, sir, yes sir.

Q And if you are convinced beyond a reasonable doubt of the guilt of the defendant of the crime of murder in the first degree, would you say so in your verdict? A Yes, sir.

Q Would you permit any outside consideration, such as sympathy, to weigh in your mind? A No, sir.

Q Is there any reason that you know of why you could not be a fair and impartial juror in this case? A I believe I have heard the case discussed, and I might enter the jury box with a slight prejudice against the prisoner.

Q When did you hear it discussed? A Some time ago.

Q At the time of its occurrence? A I guess eight or ten months ago.

Q Did you talk it over with anyone ~~else~~ yourself? A Well, it was discussed a bit.

Q Or did you just hear the discussion? A I heard the discussion, and entered into it a bit.

Q Did you at that time form any conclusion as to the guilt or innocence of the defendant? A Well, I was a bit prejudiced, I think, against the defendant. I will try not to let it influence me.

Q Would you be able to go into the jury box without that prejudice in your mind? A I would try to.

Q Would you be able to? A That I don't know.

Q Couldn't you lay that prejudice aside and render your

CASE #2110



verdict on the evidence as it is given to you and the law as his Honor charges you? A I would try my best to do so.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q You have a prejudice? A Yes, sir.

Q And you feel that that prejudice might influence your verdict? A Well, it might.

MR. MOORE: I submit the challenge.

THE COURT: Allowed.

W I L L I A M M A R B E, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

THE WITNESS: Your Honor, since my examination by the Commissioner of Jurors, my mind has somewhat changed as to capital punishment.

Q Where do you live? A 315 West Ninety-eighth street.

Q How long have you lived there? A How long have I lived at my present address?

Q Yes. A One year.

Q Before that, where did you live? A Madison avenue and Ninety-sixth street.

Q How long have you been a resident of the County?

A Twenty-five years.

Q Your business is what? A Stea, laundry business.

Q Been engaged in that business for how long? A That number of years, twenty-five years.

CASE #2110



Q Have you any conscientious scruples against the infliction of the death penalty? A I have.

Q Did you state those scruples to the Commissioner of Jurors when you were examined? A Not at that time.

Q You didn't have them at that time? A No.

Q How long have you been a member of the panel? A Of this panel?

Q Yes sir? A The first time I have been called.

Q When did you go before the Commissioner of Jurors?

A Several years ago; about four years ago.

MR. MURPHY: I submit the challenge, your Honor, as to the Juror.

MR. MOORE: I don't think he is<sup>dis-</sup>qualified. He simply asked if he had scruples.

MR. MURPHY: Scruples against the infliction of the death penalty.

MR. MOORE: That may be so. Many people have.

CROSS-EXAMINATION BY MR. MOORE:

Q Are those scruples of such a character, those conscientious scruples of such a character as would prevent you from finding the man guilty of the crime of murder in the first degree where the punishment for that offense is death?

A I may answer my way of thinking has somewhat undergone a change since that time.

Q I don't care about that. Do you understand my question? Are your scruples of such a character as would pre-

CASE #2110



clude you or prevent you from bringing in a verdict of guilty of murder in the first degree, where the punishment for that is death? A Yes.

MR. MOORE: Good.

MR. MURPHY: I press the challenge.

THE COURT: Challenge allowed.

A. P. De FOREST ALLGOOD, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 138 East Thirty-eighth street.

Q How long have you lived there? A About six months.

Q Before that, where did you live? A 36th street.

Q What address? A 70 West.

Q How long have you been a resident of the County? A Eleven or twelve years.

Q Your business is what? A I am a representative of an English firm in America for the purchase of material.

Q How long have you represented that firm? A Oh, about the last year, since the beginning of the European War.

Q Before that, what was your business? A Stock broker.

Q Connected with what concern? A I was in business for myself.

Q Did you have a seat on the Exchange? A No; I had a seat on the Consolidated.

Q Have you any conscientious scruples against the infliction of the death penalty? A No.

CASE #2110



Q Do you know generally the duties of a juror? A I have a fair idea of it, yes.

Q If you are accepted as a juror, and you sit in the box with your other jurors, could you come to a true determination as to what the facts in the case are? A What is that?

Q I say, will you listen to the evidence as given you by the witnesses, and weigh their testimony, and come to a determination as to the truth? A Oh, yes.

Q And you will apply to that determination the law as his Honor charges it to you? A Yes.

Q You understand that is your duty? A Yes, sir.

Q And base a verdict on the law and the facts as you determine them? A Yes.

Q And if you are convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in the first degree, would you say so in your verdict? A Certainly.

Q You would not allow any outside considerations, such as sympathy, to move you? A That is a hard thing to answer. You never can tell what will come up.

Q You appreciate that it is your duty to return a verdict on the facts as they are brought before you? A Yes, the facts as they are presented.

Q And you would endeavor to do so? A Yes, to the best of my ability.

Q Is there any reason that you know of why you would not be a fair and impartial juror? A Only it is very incon-

CASE #2110



venient for me to be one at the present time. I would be giving all my attention to it.

Q That would not make you partial? A No, that would not make me partial, but I don't know whether I could keep my mind on it as much as it should be.

Q You would endeavor to do so, would you not? A I would endeavor to do so, yes, naturally.

MR. MURPHY: You may examine.

MR. MOORE: "No questions.

MR. MURPHY: Challenged by the People.

D A V I D B. R. C H A P M A N, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 537 West One hundred and Twenty-first street.

Q How long have you lived there? A Three years.

Q And before that, where did you live? A Greenwich, Connecticut.

Q Born in Connecticut? A No, New York.

Q Your business is what? A Real estate.

Q With what concern? A Myself.

Q And where is your place of business? A 25 Broad .

Q How long have you been in that business? A In the real estate business?

Q Yes. A Been in the real estate business, off and on, for most of my life.

CASE #2110



Q Have you any conscientious scruples against the infliction of the death penalty? A I have not.

Q You understand generally the duties of a juror? A I do.

Q If you are accepted as a juror, will you weigh the evidence as presented to you by the witnesses, and determine the true facts? A I will do my best.

Q And you understand that it is your duty to take the law from the Court? A Yes, sir.

Q And would you return a verdict to which the law and the facts applied? A Yes, sir.

Q If you are convinced of the guilt of this defendant of the crime of murder in the first degree, and you are convinced of that beyond any reasonable doubt, would you say so in your verdict? A I should.

Q And endeavor to return a verdict based on the facts and the law, and not on any outside consideration, such as sympathy? A I should.

Q Is there any reason that you know of why you could not be a fair and impartial juror in this case? A None that I know of.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Have you ever been a juror in a criminal case? A Yes.

Q A murder case? A No.

Q How many times in a criminal case? A Once.

Q In this County? A Yes, sir.

CASE #2110



Q Do you know any persons whose names were mentioned by the District Attorney in his remarks to the jury? A I do not.

Q Do you know anybody connected with the District Attorney's office? A I do not.

Q You understand, do you not, that the defendant is presumed to be innocent at the present time? A Yes.

Q And that presumption, the Court will charge you, remains with him until it has been removed by evidence? A Yes sir.

Q And that evidence must convince you beyond a reasonable doubt of his guilt? A It would have to.

Q And would you accept that statement as the law in this case, if the Court so charged you, that he is presumed to be innocent? A Surely.

Q Have you any prejudice against a defense of an alibi? A No, sir, if it is proven.

Q Now, I ask you if, after you have heard all the evidence in the case, including the evidence upon the part of the defense tending to establish an alibi, you had a reasonable doubt as to whether the alibi had been established, would you acquit the defendant? A I should.

MR. MOORE: No further questions.

MR. MURPHY: Satisfactory to the People.

MR. MOORE: Satisfactory to the defense.

(The juror is duly sworn, taking Seat No. 8.)

A R T H U R J. B I R K N E R, being first duly sworn

CASE #2110



and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 215 Audubon avenue.

Q How long have you lived there? A Two years.

Q Before that, where did you live? A 651 Lenoxavenue.

Q You have been a resident of this County all your life?

A Yes, sir.

Q Your business is what? A Jeweler.

Q With what house? A Myself.

Q Where is your place of business? A 503 Fifth avenue.

Q How long have you been in that business? A Eighteen years.

Q Have you any conscientious scruples against the infliction of the death penalty? A No, sir.

Q You understand generally the duties of a juror? A Yes.

Q To take the facts from the witnesses and the law from the Court? A Yes, sir.

Q Will you return a verdict based on the facts from the witnesses and the law from the Court? A Yes, sir.

Q If you are convinced beyond any reasonable doubt of the guilt of this defendant of the crime of murder in the first degree, will you say so in your verdict? A Yes, sir.

Q Will you allow yourself to be swayed by any passion or sympathy or any outside considerations? A No, sir.

Q Is there any reason that you know of why you could not be a fair and impartial juror in this case? A No, sir.

CASE #2110



MR. MURPHY: You may examine.

MR. MOORE: No questions.

MR. MURPHY: Challenged by the People.

T H O M A S            D.        B A R R O L L, being first duly

sworn and examined on the voir dire, testified as follows:

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 107 West Forty-third street.

Q How long have you lived there, Mr Barroll? A Less than a year.

Q Your business is what? A Investment securities.

Q Your place of business is where? A 43 Exchange place.

Q Have you any conscientious scruples against the infliction of the death penalty? A I have not.

Q Do you know generally the duties of a juror? A I have never served as a juror.

Q You understand from what we have said here this morning that the gentlemen of the jury determine the facts of the case from the evidence that is presented by the witnesses?  
A I think so.

Q You understand that it is the duty of a juror to accept the law as the Court lays it down in his charge? A Yes.

Q You understand that, do you not? A It has always been a doubtful point in my mind as to whether a juror should accept the statement of a judge as to whether murder in the first or second degree, as to the penalty, how it should be decided.

Q You understand that his Honor will charge you at the

CASE #2110



conclusion of the case and state to you what the law of this State is, plainly, and then you take the facts as you have heard them from the witnesses, and you apply those facts to the law? You are perfectly willing to do that, are you not?

A I will try to.

Q You are perfectly willing to abide by his Honor's charge as to what the law is? A Yes.

Q And it is for you and your fellow-jurors to determine whether or not this defendant is guilty of the crime of murder in the first degree, and if you determine, beyond all reasonable doubt, or a reasonable doubt, that this defendant is guilty of the crime of murder in the first degree, would you say so in your verdict? A I certainly should.

Q Would you permit yourself to be swayed by sympathy, or any outside considerations? A That is a thing which I can't say until I have heard the evidence. I don't think I would. I should try not to.

Q You would endeavor to restrict yourself solely to the evidence? A I would try to.

Q Is there any reason that you know of why you could not be a fair and impartial juror in this case? A None.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Do you know any of the persons whose names were mentioned by the District Attorney in his general remarks to the jurors?

A I didn't recognize any of the names.

CASE #2110



Q Do you recall ever having heard about the crime? A No.

Q Do you know anybody connected with the District Attorney's office? A Not that I can recall at present.

Q Of course, you do know, even though you have not served as a juror, that the defendant before the law is presumed to be innocent, do you not? A I recognize that.

Q And that presumption remains with him until it has been destroyed by evidence which satisfies your mind beyond a reasonable doubt of his guilt? You understand that to be the law?

A Yes, sir.

Q Now, have you a prejudice against the defense of an alibi?

A I don't know - is that a technical legal term - the defense of an alibi? I don't know what that is.

Q And alibi means another place, not there. A Yes, sir, I understand that.

Q That defense, of course, is a good defense, you appreciate, if it is established, because if he was not there, he could not commit the crime? A It would be conclusive, if established.

Q What I am getting at is, if, after hearing all the evidence, including that defense, that he was not there, that defense of an alibi, you could not say to yourself fairly, "I am satisfied beyond a reasonable doubt that he has not established this alibi, or but what the alibi might have been established", would you acquit him under those circumstances? A I have heard the term, "reasonable doubt" mentioned here so often it strikes me it is a very elastic term.

CASE #2110



Q Not so elastic. A It differs in each one's mind.

Q The Court will charge you what a reasonable doubt is. Of course, it is not a whim, an impression, or a speculative doubt, but it is a doubt a reasonable man would have passed upon the evidence, after reviewing it all, to say, "Upon this evidence I have a reasonable doubt as to the guilt of the defendant"? A That would be part of the evidence on which I should base a decision as to his guilt.

Q Do you have a prejudice against him because he is a foreigner? A No, sir.

Q Why did you hesitate? A I have a prejudice against the hyphenated Americans.

Q This is not a hyphenated American. This is a foreigner. Have you a prejudice against foreigners? A No.

Q You hesitated for a spell in answering the question. Is there any doubt about it? A That is the only reason.

MR. MOORE: No further questions.

MR. MURPHY: Challenged by the People.

JAY G O L D, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 42 East Eleventh street.

Q How long have you lived there? A Nine years.

Q How long have you been a resident of the County? A Twenty years.

CASE #2110



Q Your business is what? A Commission broker.

Q Commission broker? A Yes, sir.

Q Where is your place of business? A Right there, 42 East Eleventh street.

Q Have you any conscientious scruples against the infliction of the death penalty? A No.

Q You understand generally the duties of a juror? A Yes.

Q To take the facts from the evidence as given by the witnesses, and the law from the Court? A Yes.

Q And return a verdict based on the facts and the law?

A Yes.

Q If you are convinced beyond any reasonable doubt of the guilt of this defendant of the crime of murder in the first degree, will you say so in your verdict? A Yes.

Q Would you allow any consideration outside of the evidence to enter into your deliberations? A No.

Q Is there any reason that you know of why you could not be a fair and impartial juror in this case? A I do not.

MR. MURPHY: You may examine.

MR. MOORE: No questions.

MR. MURPHY: Acceptable.

MR. MOORE: Challenged by the defendant.

J O H N F. B L A C K, J R., being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 240 West One hundred and Fourth

CASE #2110



street.

Q How long have you lived there? A Three years.

Q What is your business? A Cotton broker.

Q Where is your place of business? A Cotton Exchange.

Q Have you any conscientious scruples against the infliction of the death penalty? A I don't wish to be called upon to have to render a verdict of guilty in the first degree, murder.

Q On account of the penalty that attaches to it? A I think so, yes.

Q If you were accepted here as a juror, and on the whole case you were convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in the first degree, would you be able to bring in that verdict? A I would have to.

Q But you would not want to do it? A I don't want to do it.

Q Your sentiments have not changed any, have they, since you were examined by the Commissioner of Jurors? A Only when I come face to face with the problem of having to bring in that verdict.

Q Of course, you appreciate it is not a pleasant task, it is not a task that any of us want, but you understand that you owe a duty to the State, do you not? A I do.

Q And if you were convinced beyond a reasonable doubt that this defendant was guilty of the crime of murder in the first degree, would you bring in such a verdict? A I would.

CASE #2110



Q And you would rest your conclusion on the evidence submitted here to you and on the law as the Court gave it to you, and not be swayed by any outside consideration? A No.

Q Is there any reason that you know of which would prevent you from being a fair and impartial juror in this case? A Outside of that one question.

MR. MURPHY: You may examine.

MR. MOORE: No questions.

MR. MURPHY: Satisfactory.

CROSS-EXAMINATION BY MR. MOORE:

Q Do you know any of the persons whose names were mentioned by the District Attorney? A I do not.

Q Know anything about the case? A No, sir.

Q Do you know anybody connected with the District Attorney's office? A No, sir.

MR. MOORE: Satisfactory to the defendant.

MR. MURPHY: Satisfactory.

(The juror is duly sworn, taking Seat No. 9.)

W I L L I A M M A N G E R, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 783 Fifth avenue.

Q How long have you lived there, Mr. Manger? A About three months.

Q And before that where did you live? A 118 West Fifty-seventh street.

CASE #2110



Q How long have you been a resident of this county? A About ten years.

Q Are you in business? A Yes, I am in the wholesale business.

Q Where? A The Hotel Netherlands.

Q Have you any conscientious scruples against the infliction of the death penalty? A No.

Q Do you know generally what the duties of a juror are?  
A I think so.

Q If you are accepted here as a juror, would you go into the jury-box and listen to the evidence as it is presented to you by the witnesses, carefully, and then come to a conclusion as to the true state of facts? A Yes, sir.

Q And to that state of facts as you have reached them, will you apply the law that the Court has given to you? A I will.

Q And render a verdict on the facts and the law? A Yes.

Q If you are convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in the first degree, would you say so in your verdict? A I would.

Q You would not permit any consideration outside of the evidence to enter into your deliberations, would you? A No.

Q Is there any reason that you know of that would prevent you from being a fair and impartial juror in this case? A No.

MR. MURPHY: You may examine.

MR. MOORE: No questions.

MR. MURPHY: Satisfactory to the People.

CASE #2110



MR. MOORE: Challenged by the defense.

W I L L I A M B U R C K, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 242 West One hundred and Thirty-second street.

Q You have lived there how long? A About five or six years.

Q How long have you been a resident of the county? A Oh, perhaps forty years. Born in Brooklyn.

Q What is your business? A Not for myself, no.

Q What business are you in? A Real estate.

Q With what concern? A M. T. Babcock & Company, Forty-second street.

Q Been with them how long? A Five years.

Q Before that, where were you? A With the New York Port.

Q Have you any conscientious scruples against the infliction of the death penalty? A No.

Q You understand the duties of a juror? A Perfectly.

Q Take the facts from the witnesses? A Yes, sir.

Q And the law from the Court? A Yes, sir.

Q Will you render a verdict on the facts and the law?

A Yes.

Q If you are convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in the first degree,

CASE #2110



will you say so in your verdict? A I would.

Q Would you permit any outside consideration to enter into your deliberations? A No.

Q Such as sympathy, or passion, or prejudice? A No.

Q Is there any reason that you know of why you could not give a fair trial to this defendant? A No, I don't think so.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Have you ever been a juror in a murder case? A I have.

Q How many times? A Three times, at least, perhaps more.

Q When was the last time? A The second Thaw jury.

Q Ever been a juror in any other criminal case? A Yes.

Q About how many times would you say you had acted as a juror in criminal cases, altogether? A I can't recall. I have been serving since I was of age.

Q You, of course, know that the presumption of innocence goes with the defendant? A Yes, sir.

Q And the benefit of all reasonable doubt attaches to him? A Yes, sir.

Q You would follow those rules, would you, if accepted as a juror? A I would.

Q Do you know any of the persons whose names were mentioned by the District Attorney in his general remarks to the jury? A I don't think I do.

Q Do you know anybody connected with the District Attorney's office? A I do.

CASE #2110



Q Who? A Honorable Frank Moss.

Q He is not connected with the District Attorney's office now? A No, but he has been. I know he is not just at present.

Q That is the only one you know? A I think that is all. I don't think of any just at present.

Q You have not heard anything about the case, have you? A No.

MR. MOORE: No further questions.

MR. MURPHY: Satisfactory to the People.

MR. MOORE: Satisfactory to the defendant.

(The juror is duly sworn, taking Seat No. 10).

D A V I D L A M O N T, being first duly sworn and examined on the voir dire, testified as follows:

THE WITNESS: Your Honor, I would like to offer an excuse from serving at this time (witness submits paper to Court)

THE COURT: The state of health of the talesman is such that I think he ought to be relieved. He has a doctor's letter here.

(Talesman excused by consent.)

T H O M A S E. B R O W N, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 50 West Forty-seventh street.

Q What is your business? A Consulting engineer.

CASE #2110



Q Your place of business is where? A 17 Battery Place.

Q Have you any conscientious scruples against the infliction of the death penalty? A Yes, I am opposed to capital punishment.

Q If you took a place in the jury box, and, after hearing all the evidence in the case, you were convinced beyond a reasonable doubt that this defendant was guilty of the crime of murder in the first degree, would those conscientious scruples be such as to prevent you rendering a verdict of murder in the first degree? A I don't think they would. I believe that I could go into that jury box and render a verdict in accordance with the facts.

Q You know that would be your duty? A I understand that to be my duty, and I believe that I could do it.

Q You should endeavor to do it? A I should endeavor to.

Q Do you know that you could? A No, I do not know that I could, because there might be a subconscious influence that might warp my judgment. I am fairly aware that a man may very frequently think that he is acting on his judgment, when he may be influenced without his knowledge. I thoroughly understand that.

MR. MURPHY: Excused by the People.

EDWARD HAGAMAN HALL, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT Examination by Mr. Murphy;

CASE #2110



Q Where do you live? A 702 West End avenue.

Q How have been a resident of the county for how long?

A Twenty-five years.

Q Your business is what? A I am secretary of two civic organizations.

Q What are they? A The Americ-Scenic and Historical Reservation Society, and the Society for the Protection of The Adirondacks.

Q Have you any conscientious scruples against the infliction of the death penalty? A No, sir.

Q Are you familiar, in a general way, with the duties of a juror? A I am.

Q If accepted as a juror here, will you take the law from the Court? A I will.

Q And apply that law to the facts? A I will.

Q And return a verdict on the facts and the law? A I will.

Q If you are convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in the first degree, will you say so in your verdict? A I will.

Q Will you allow any outside considerations to enter into your deliberations? A No, sir.

Q Is there any reason that you know of why you could not be a fair and impartial juror in this case? A No, sir, not that I know of.

MR. MURPHY: You may examine.

MR. MOORE: No questions.

CASE #2110



MR. MURPHY: Acceptable to the People.

MR. MOORE: Challenged by the defense.

D A V I D      W I L S O N, being first duly sworn and examined  
on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live?    A 363 West Forty-sixth street.

Q How long have you lived there?    A Six months.

Q Before that, where did you live?    A West Fifty-fifth  
street.

Q What address?    A 329 .

Q How long did you live there?    A Four years.

Q May I ask your age?    A Twenty-eight.

Q In business?    A Yes, sir.

Q What business?    A Coal business.

Q With what firm?    A Wilson Coal Company.

Q How long have you been with them?    A Twelve years.

Q What is your position there?    A Secretary of the company.

Q Have you any conscientious scruples against the infliction  
of the death penalty?    A No, sir.

Q Where is the place of business?    A 617 West Forty-  
ninth street - Forty-ninth street and North River.

Q Do you know generally the duties of a juror?    A I do.

Q Would you take the facts as the witnesses give them to  
you and the law as his Honor charges it?    A Yes, sir.

Q Will you render a verdict on the facts and the law ?

A Yes, sir.

CASE #2110



Q If you are convinced beyond a reasonable doubt that this defendant is guilty of the crime of murder in the first degree, will you say so in your verdict? A I will.

Q Will you permit any outside considerations to enter into your deliberations? A No.

Q Is there any reason that you know of why you could not be a fair and impartial juror in this case? A No, sir.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Where were you living a year ago? A 329 West Fifty-fifth street.

Q Did you ever hear anything about this case? A No, sir.

Q Ever knew that there was a woman killed in Fifty-third street, on the West side?

MR. EDWARDS: East side.

Q On the East side? A No, sir.

Q Did you know any of the persons whose names were mentioned by the District Attorney? A No, sir.

Q Do you know anybody connected with the District Attorney's office? A Does meeting an attorney of the District Attorney's office constitute knowing him?

Q Do you know any of them? A I have met Mr. Murphy.

Q In a social way? A Just offhanded, at a dinner.

Q Have you ever been a juror? A Yes, sir.

Q In a murder case? A No, sir.

Q Criminal case? A No, sir.

CASE #2110



Q How many times have you been a juror? A Once.

Q Are you married? A No, sir.

MR. MOORE: No further questions.

MR. MURPHY: Satisfactory to the People.

MR. MOORE: Challenged by the defense.

L O U I S C. R I E C K, being first duly sworn and  
examined on the voie dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 450 Audubon avenue.

Q How long have you lived there? A About two years.

Q Before that, where did you live? A West One hundred  
and Eighty-sixth street.

Q Been a resident of the County how long? A About nine  
years.

Q Your business is what? A With the Corn Products  
Refining Company.

Q What position do you hold there? A In charge of the  
order division.

Q Have you any conscientious scruples against the infliction  
of the death penalty? A I have not.

Q Do you know generally the duties of a juror? A I do.

Q Take the facts from the witnesses and the law from the  
Court? A I would.

Q And, applying the law to the facts, base a verdict on  
the facts? A Yes, sir.

Q If you are convinced beyond a reasonable doubt of the

CASE #2110



guilt of this defendant of the crime of murder in the first degree, will you say so in your verdict? A I will.

Q Will you permit any outside consideration, such as sympathy, or passion, or prejudice, to enter into your deliberations? A No, sir.

Q Is there any reason that you know of why you could not be a fair and impartial juror in this case? A No, sir.

MR. MURPHY: You may examine.

MR. MOORE: No questions.

MR. MURPHY: Satisfactory to the People.

MR. MOORE: Challenged by the defense.

I S A A C N. R O T H, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 537 West One hundred and Twenty-first street.

Q How long have you lived there, Mr. Roth? A Fourth years.

Q And how long have you been a resident of the County? A All my life.

Q Your business is what? A At present, I am in no business.

Q Before you retired, in what business were you? A Dry-goods.

Q Have you any conscientious scruples against the infliction of the death penalty? A. None.

CASE #2110



Q You know generally/duties of a juror? A I certainly do.

Q You will accept the facts as the witnesses give them to you, weigh them, and then determine what in your mind is the true state of affairs? A Exactly.

Q And to that determination apply the law as the Court charges you, and render a verdict? A Yes, sir.

Q If you are convinced beyond a reasonable doubt of the guilt of this defendant of the crime of murder in the first degree, you would say so in your verdict? A I certainly should.

Q Is there any reason that you know of why you could not be a fair and impartial juror in this case? A I know of none.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Do you know any of the persons mentioned by the District Attorney? A No, sir.

Q Have you heard anything about the case? A I never have, to my knowledge.

Q Have you been a juror in a murder case? A About a dozen years ago I was on a case of infanticide.

Q Have you been a juror in other criminal cases? A I don't remember any between that time.

Q Have you a prejudice against the defense of an alibi?  
A Not as such.

Q And if, after you have heard all of the evidence, both on the part of the prosecution and upon the part of the defense, - the defense is an alibi, - you have a reasonable doubt as to

CASE #2110



whether that defense has been established, would you acquit the defendant? A If I had a reasonable doubt as to the guilt of the prisoner, I certainly would acquit him.

Q Well, if you had a doubt as to whether he was there, or not, of course - A That is included in my answer. Of course, he could not commit a murder if he was not there.

Q So, if you had a reasonable doubt as to whether he had established his alibi, you would acquit him? A If I had a reasonable doubt as to his guilt, I would acquit him.

Q Would you do that? A I can't answer the question in any other manner.

Q I want you to. It will affect me somewhat. I want to know if, after you have gone into the jury room, you have heard all of the prosecution's case, then you heard the defense of <sup>an</sup> alibi, and such evidence as we offered in support of it, if you would say, as a conscientious man, "I am unable to determine whether this alibi has been established, or not", would you acquit him? A I would not consider it that way at all. If I had a doubt as to his guilt, I would acquit.

MR. MOORE: Then, I challenge for cause.

THE COURT: Disallowed.

MR. MOORE: Then, I will challenge peremptorily.

HENRY P. WALBRIDGE, being first duly sworn and examined on the voir dire, testified as follows:

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 37 East Thirty-eighth street.

CASE #2110



Q How long have you lived there? A About two years and a half.

Q Before that, where did you live? A I lived at No. -  
I forget the number now, it is was opposite the Garden, on  
Twenty-seventh street.

Q Your business is what? A I am in the coal business.

Q Coal business? A Yes, sir.

Q Where is that? A No. 1 Broadway.

Q Have you any conscientious scruples against the infliction  
of the death penalty? A No, sir.

Q Do you know generally the duties of a juror? A How is  
that?

Q Do you know generally what the duties of a juror are.  
A Yes, sir.

Q If you are accepted as a juror here, will you take the  
facts from the witnesses and the law from the Court? A Yes, sir.

Q And apply the law to the facts, and render a verdict ac-  
cordingly? A Yes, sir.

Q And if you are convinced beyond a reasonable doubt  
of the guilt of this defendant of the crime of murder in its  
first degree, will you say so in your verdict? A Yes, sir.

Q Would you permit any outside consideration, such as  
sympathy or passion or prejudice, to enter into your delibera-  
tions? A No.

Q Is there any reason that you know of that would prevent

CASE #2110



your being a fair and impartial juror? A None at all.

MR. MURPHY: You may examine.

CROSS-EXAMINATION BY MR. MOORE:

Q Do you know any of the persons whose names were mentioned by the District Attorney? A No, sir. I heard the last two or three rather indistinctly, but none of the others.

Q Those were the most important ones. You don't know, in any event, Philip Terrano? A No, sir.

Q Nor Mr. Weinstein? A No, sir.

Q Nor George Fenn? A No, sir.

Q And you did not know the woman who was killed, did you?

A No, sir.

Q Do you know anybody connected with the District Attorney's office? A No, sir, not that I know of.

Q Do you know of any reason why you could not sit and try this case fairly? A No, sir.

MR. MOORE: No further questions.

MR. MURPHY: Challenged by the People.

J. W. FULLER POTTER, being first duly sworn and examined on the voir dire, testified as follows:-

THE COURT: I wish to state, gentlemen, that the talesman states to me that his position is such, the nature of his work is such, that at the present time it is going to be very difficult for him to serve. He is a member of the Stock Exchange, a floor member, and he states that at this time it would be a great hardship for him to serve.

CASE #2110



Perhaps you will relieve him.

MR. MOORE: I just asked the Clerk how many jurors we had. We have nine, and if he will wait, possibly we can excuse him.

DAVID KOBLENZER, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. MURPHY:

Q Where do you live? A 130 West One hundred and Eleventh street.

BY MR. EDWARDS:

Q Mr. Koblenzer, what is your business? A In the garment business, ladies garments.

Q Where is your place of business? A 26th street.

Q Are you in business for yourself? A No, I am connected with a concern.

Q What concern? A Steckler & Company.

Q Have you ever served as a juror in the trial of civil or criminal cases before? A Civil cases.

Q But never in criminal? A No.

Q How long have you lived in this county? A Thirty-five years; lived here all my life; I was born in New York.

Q Have you any conscientious scruples against the infliction of the death penalty? A No.

Q Do you know of any reason why you can't sit as a fair and impartial juror in the trial of a case of this kind? A No.

Q You understand that the burden rests on the prosecution

CASE #2110



to prove the defendant's guilt, do you not? A Yes, sir.

Q And that it is your duty, if you sit in this case as a jurymen, to take the law from the Court as he gives you the law?

A Yes, sir.

Q Now, if you sit, will you do that, without any question of whether you think what he tells you is the law ought to be the law, or not? A I will take his word for it.

Q You will take it as it stands and as it is given to you?

A As it is given.

Q Do you understand that you and the other eleven jurors in the jury box are the sole judges of the facts? A Yes, sir.

Q And if you sit it will be your duty to find the facts in accordance with the evidence? A Yes, sir.

Q And, measuring those facts, that is, determining what those facts mean, by the law as the Court gives it to you - do you understand that? A Yes, sir.

Q Do you think you can do that without being influenced by either passion or prejudice or sympathy? A I think so.

Q That is, you can base your verdict on what you hear in this court room alone, excluding all extraneous influences? A Yes, sir, just on the facts as presented.

Q If you are selected as a juror, and after you have heard all the evidence in the case, and heard the Court's charge, you reach the conclusion that this defendant was guilty, beyond a reasonable doubt, of murder in the first degree, as the Court defined that crime to you in its charge from the law, would you

CASE #2110



find that verdict? A Find him guilty of murder in the first degree.

MR. EDWARDS: No challenge for cause.

CROSS-EXAMINATION BY MR. MOORE:

Q Have you ever been a juror in a murder case? A No, only in civil suits.

Q Do you know anybody connected with the District Attorney's office? A No, sir.

Q Do you recall that you know any of the persons whose names were mentioned by the District Attorney in his general remarks? A No.

Q Do you know anything or have you heard anything of the case itself? A I don't remember hearing of it.

Q You understand that the defendant is now presumed to be innocent, do you not, under the law? A Yes.

Q And that that presumption will go with him during the whole of the trial, until the State overcomes it? A Yes, sir.

Q And that beyond a reasonable doubt? A Yes, sir.

Q And if you are accepted as a juror, will you give the defendant the benefit of every reasonable doubt? A I certainly would.

Q Upon the whole case? A Yes.

Q Upon the defense, as well as upon the prosecution? A Yes, sir.

Q Have you any prejudice against the defendant, or would you have sympathy, because he is a foreigner? A No.

MR. MOORE: No further questions.

CASE #2110



MR. EDWARDS: Satisfactory to the People.

MR. MOORE: Satisfactory to the defendant.

(The juror is duly sworn, taking Seat No. 11.)

H E N R Y     P.     A C K E R M A N, being first duly sworn  
and examined on the voir dire, testifies as follows:-

DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live?     A 338 West Twelfth street.

Q What is your business?     A Carpentering.

Q And are you a contractor in that line?     A In a small  
way.

Q And where is your place of business?     A The same ad-  
dress.

Q How long have you lived in New York County?     A About —  
twenty years.

Q And where did you come from before you came to New  
York?     A Bergen County, New Jersey.

Q Born in New Jersey?     A Yes, sir.

Q Have you ever served as a juror in the trial of either  
civil or criminal cases before?     A Yes.

Q Both, or only one?     A I beg your pardon?

Q Have you served in both civil and criminal cases?     A  
Yes, sir.

Q In both?     A Yes, sir.

Q In this county?     A Yes, sir.

Q You understand, then, the duties of a juror?     A Yes.

Q And you know it is your duty as a juror to take the law

CASE #2110



from the Court? A Yes, sir.

Q And will you do that without any question, if you sit in this case? A Yes, sir.

Q Do you feel that you can sit in a case of this character and reach a verdict which shall be fair to both the People and the defendant? A Yes, sir.

Q Do you think you can do that, and base your verdict on the evidence in the case alone, without being influenced by any outside influences? A Yes, sir.

Q Like passion or prejudice, or sympathy? A Yes, sir.

Q You think you can put those out of your mind, do you? A Yes, sir.

Q Have you any conscientious scruples or prejudices against the death penalty or its infliction? A No.

Q If you sit in this case do you think that you will be able to find a verdict on the evidence, measured by the law as the Court charges you the law? A Yes, sir.

Q And bring in such a verdict? A Yes, sir.

Q Now, if you sit in this case, and, after hearing the whole evidence on both sides, and the Court's charge, you were satisfied in your mind, beyond a reasonable doubt, that this defendant was guilty of murder in its first degree, would you find him guilty? A Yes, sir.

Q Do you know Mr. Moore, or his associate? A No, sir.

Q Have you ever read or heard anything about this case? A No, sir.

CASE #2110



Q Do you know any of the persons whose names I read as probable witnesses, at the opening? A No, sir.

MR. EDWARDS: No challenge for cause.

MR. MOORE: No questions.

MR. EDWARDS: Acceptable to the People.

MR. MOORE: Challenged by the defense.

F R A N K W. C U T T R E L L, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live? A 2838 Fifth avenue.

Q What is your business? A Exterminating business, contracting business.

Q In what line? A Exterminating.

Q Just what does that mean? A Apartment houses, contracting on apartment houses, steamships, and so forth, ridding them of vermin.

Q And how long have you lived in New York County? A Twenty years.

Q Have you ever served as a juror in either civil or criminal cases before? A Yes, sir.

Q Have you served in criminal cases? A Yes, sir.

Q In this county? A Yes, sir.

Q Civil cases also? A Yes, sir.

Q May I ask how old you are? A Thirty-nine.

Q And from what state did you come to New York? A New Jersey.

CASE #2110



Q Have you any ~~scruple~~ or prejudice against the infliction of the death penalty? A No.

Q Do you know of any reason why you can't sit in a case of this character and act as a fair and impartial juror, giving both the people and the defendant a fair trial? A No.

Q Now, you understand, of course, that it will be your duty as a juror to take the law from the Court as he gives it to you? A Yes, sir.

Q Will you do that? A Yes, sir.

Q And you understand also, I assume, that it is the duty of yourself and the other jurors in the box to determine what the facts are? A Yes, sir.

Q And that you are the sole judges of the facts? A Yes.

Q Now, if you sit in this case, will you bring in a verdict which will express your honest conviction on the facts, measured by the law as the Court gives it to you? A I will.

Q If, after you have heard all the evidence in the case, you are satisfied beyond any reasonable doubt that this defendant is guilty of murder in the first degree, as the Court defined that crime to you, will you bring in that verdict? A I will.

MR. EDWARDS: No challenge for cause.

CROSS-EXAMINATION BY MR. MOORE:

Q Do you know any of the persons whose names were mentioned by the District Attorney in his remarks to the jury? A No.

Q Have you heard anything about this case in any way? A No.

CASE #2110



Q. Do you know anybody connected with the District Attorney's office? A No.

Q Did I understand you to say you had sat upon criminal cases before? A Yes, sir.

Q A murder case? A Yes, sir.

Q More than once? A No.

Q How long ago was that? A Five or six years ago.

Q Any other criminal case but that one? A Yes, I have been on two or three others.

Q Would you have a prejudice against this defendant simply because he is a foreigner? A No.

Q Have you a prejudice against the defense of an alibi?  
A No.

Q You would give the defendant the benefit of every doubt, reasonable doubt, that the case presented, would you? A Yes.

Q If you had a reasonable doubt as to his guilt, you would acquit him, would you not? A I would.

MR. MOORE: No further questions.

MR. EDWARDS: Challenged by the People.

R O B E R T B. J E F F E R S O N being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live? A 161 West One hundred and Sixth street.

Q Mr. Jefferson, what is your business? A Dry goods.

CASE #2110



Q And where is your place of business? A Brooklyn.

Q Where do you reside? A 161 West One hundred and Sixth street.

Q How long have you lived in New York County? A Oh, twelve or thirteen years.

Q And before that where did you live? A In Brooklyn.

Q And lived there all your life? A No; Philadelphia.

Q Philadelphia before that? A Yes, sir.

Q Have you ever served as a juror in the trial of civil cases? A No.

Q Or criminal cases, either? A No.

Q Neither in Brooklyn or New York? A No.

Q Do you understand the duty of a juror? A Yes, I think so.

Q Do you understand that it will be your duty, if you sit in the jury box to take the law from the Court? A I certainly do.

Q And do that without any question of your own private opinion as to what the law is or ought to be? A Yes, sir.

Q You will do that, will you? A Yes, sir.

Q And do you also understand that you and the other eleven jurors are the sole judges of the facts? A Yes, sir.

Q And that it will be your joint duty to find what the facts are on the evidence in this case, and on nothing else?

A Yes, sir.

Q You think that in a case of this character you can do

CASE #2110



that without permitting yourself to be influenced by any outside consideration? A I do.

Q You think you can put aside all questions of passion or prejudice or sympathy? A Yes, sir.

Q Have you any conscientious scruples against the infliction of the death penalty? A I have.

Q Would those scruples influence your verdict if you sat in this jury box? A I think they would.

MR. EDWARDS: I submit the challenge.

THE COURT: Allowed.

G E O R G E D e B. G R E E N E, being first duly sworn and examined on the voir dire, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live? A 21 East Seventy-seventh street.

Q Mr. Greene, what is your business? A Investment bonds.

Q And your place of business is where? A 43 Exchange place.

Q Have you any conscientious scruples against the infliction of the death penalty? A No.

Q Do you know of any reason in your own mind why you can't serve as a fair and impartial juror in a case of this character? A No.

Q Do you know defendant's counsel, or his associate? A No.

Q Have you ever read or heard anything about the case? A No.

Q Do you know any of the persons whose names I read as

CASE #2110



probable witnesses? A No.

Q Have you ever served as a juror in the trial of either civil or criminal cases? A No.

Q How long have you lived in New York County? A Four years, this time.

Q And before that time where did you live? A Boston.

Q And how long did you live there? A Five years.

Q May I ask what was the state of your origin? A Maryland.

Q This defendant is charged with murder in its first degree. Do you understand that it will be your duty, if you sit as a juror, to accept the law as the Court gives it to you? A Yes, sir.

Q And you would do that, with question? A Yes, sir.

Q And do you also understand it will be your duty, with your fellow-jurors, to determine what the facts are? A Yes, sir.

Q That is, find where the truth lies in all the facts proved here? A Yes, sir.

Q Do you think you could do that without being influenced by either passion or prejudice or sympathy? A I think so.

Q Without letting any extraneous matters influence you at all? A I think so.

Q Now, if you were to sit on this jury, and, after hearing all the evidence, you were satisfied, beyond all reasonable doubt, that this defendant was guilty of murder in its first degree as that time had been defined to you by the Court, would

CASE #2110



you find him so guilty in your verdict? A Yes, sir.

Q Do you know of any reason why you can't serve as a fair and impartial juror, giving both sides a fair trial? A No.

MR. EDWARDS: No challenge for cause.

CROSS-EXAMINATION BY MR. MOORE:

Q Do you know anybody connected with the District Attorney's office? A No, sir.

Q Have you any prejudice against the defendant, or would you have, because he was a foreigner? A No.

Q Have you any prejudice against the defense known as an alibi defense? A No.

Q You would give this defendant the benefit of the doubt, if a reasonable doubt existed in your mind? A A reasonable doubt.

MR. MOORE: No further questions.

MR. EDWARDS: Challenged by the People.

M A R V I N B U R T, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live? A 201 West Seventy-ninth street.

MR. EDWARDS: This talesman is challenged by the People.

P E T E R M c C H E S N E Y, being first duly sworn and examined on the voir dire, testified as follows:-

DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live? A No. 2 St. Nicholas place.

CASE #2110



Q What is your business? A Coal business.

Q Your place of business is where? A 50 Church street.

Q Have you any conscientious scruples against the infliction of the death penalty? A I have not.

Q Do you know of any reason why you can't sit as a fair and impartial juror in a case of this kind, and give both sides a fair trial? A I do not.

Q Have you ever served as a juror in a trial of either civil or criminal actions before? A Once.

Q You understand, then, what the duties of a juror are, do you not? A I do.

Q If you sit here in this jury box, will you take the law from the Court as he gives it to you? A Yes, sir.

Q And will you honestly and conscientiously, with your eleven fellow-jurors, try to find what the truth is from the testimony in this case? A I will.

Q If you do sit as a juror in this case, and after hearing the entire case reach the conclusion, beyond all reasonable doubt, that this defendant is guilty of murder in the first degree as the Court defined that crime to you in his charge, would you find him guilty of that crime? A Yes, sir.

Q Do you know the defendant's counsel? A I do not.

Q Have you read or heard anything about the case? A I remember reading the case.

Q Did anything you read make any impression on you which would influence your verdict in any way? A No, except it was

CASE #2110



discussed in my business.

Q Would any discussion you heard in any way influence your judgment in the case on the facts here? A No, I think not.

Q That is, you could put everything else out of your mind, and listen to the evidence here, and find a verdict on the evidence as you heard it in court here? A I would decide according to the evidence.

Q What is that? A I would decide according to the evidence.

Q That is, you would not decide the case on anything you saw outside or heard outside, would you? A No.

CROSS-EXAMINATION BY MR. MOORE:

Q You have some inclination with regard to the supposed merits of this case? A I have.

Q You have yourself discussed it? A With several other people.

Q And read something about it? A Yes, sir.

Q And you have formed an opinion, have you not, as to the merits? A Well, I did at that time.

Q Well, that opinion you still have, haven't you? A I suppose I retained some portion of it.

Q Don't you recall the discussion, the matters you talked about, at the time you talked about it? A Some portion of it.

Q You have an opinion now as to the merits, have you not? A Well, I suppose I have.

Q Now, I ask you if that opinion - you believe that might

CASE #2110



influence your verdict, if you are accepted? A No, I should try to -

Q I know you would try to. That is not the question. Could you set that opinion aside, and try it regardless of the opinion? A I think I could.

Q You believe you could? A Yes.

MR. MOORE: No further questions.

MR. EDWARDS: Satisfactory to the People.

MR. MOORE: Challenged by the defense.

R I C H A R D A. B E L D I N G, being first duly sworn and examined on the voir dire, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live? A 450 Riverside Drive.

Q What is your business? A I am in the railroad business.

Q In what capacity? A General Eastern Agent.

Q For what road? A Michigan & Greatwestern.

Q You have heard the nature of the charge against this defendant. Have you any conscientious scruples against the infliction of the death penalty? A No.

Q Do you know of any reason why you can't sit as a juror in the trial of a case of this character and be fair to both sides? A I know of no reason, no, sir.

Q Do you know defendant's counsel, or his associate?

A I do not.

Q Have you ever served as a juror in a trial of either civil or criminal cases before? A I have.

CASE #2110



Q Then, you understand a juror's duties, do you? A I do.

Q If you sit in this case, will you accept the law as the Court gives it to you? A Yes, sir.

Q Without any question? A Without any question.

Q And you will make an honest effort, with your fellow-jurors, to find what the truth is of the evidence in this case? A Yes, sir.

Q And when you find that truth from the evidence in the case will you measure it by the law as the Court gives it to you, and bring in a verdict in accordance with the facts and the law? A I will.

Q Assuming that after you had heard all the evidence on both sides of the case, and the Court's charge, ~~a~~ you reach the conclusion in your own mind, beyond any reasonable doubt, that this defendant was guilty of murder in the first degree, would you bring in that verdict? A I would.

Q Do you think you can sit as a juror in this case and not let any outside consideration influence you at all? A I can.

Q That is, you won't let passion or prejudice or sympathy sway you or your judgment on influence your verdict? A No.

MR. EDWARDS: I have no challenge for cause.

CROSS-EXAMINATION BY MR. MOORE:

Q Do you know any of the persons whose names were mentioned by the District Attorney? A No, I do not.

Q Do you know anybody connected with the District At-

CASE #2110



torney's office? A No one.

Q Have you heard anything about the case? A Not a thing.

Q But you have a prejudice against the defendant because he is a foreigner? A Not the slightest.

Q Have you a prejudice against the defense of an alibi?  
A None whatever.

Q You know it is your duty to give the defendant the benefit of every reasonable doubt? A I do.

Q You would do that? A I would.

MR. MOORE: No further questions.

MR. EDWARDS: Satisfactory.

MR. MOORE: Satisfactory to the defendant.

(The jury is duly sworn, taking Seat No. 12.)

THE COURT: Gentlemen, you must not discuss this case, nor form or express an opinion on it, but keep your minds open and free until the case is submitted to you. You will see to it that you do not go near any place that is mentioned during the trial. The law requires me, every time that you leave my presence, to give you the caution that I have given you. It is not an idle thing, but substantial, and it is to be observed by you strictly. In other words let me press upon you that you are only to take up the discussion of this case, or any phase of it, after you have left here and retired to your deliberating room. Get that well into your minds at the threshold of the trial, and observe the caution from this time until the close of

CASE #2110



the trial. I will ask you to be prompt in your attendance here. You all appreciate and know that the absence of one delays the trial entirely. You will come back here this afternoon at half past two. Be in your places at that time.

(The Court then accordingly took a recess until  
2:30 P.M.)

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CASE #2110