

N. Y. SUPREME COURT,  
Trial Term -- PART I. (Criminal Branch)

-----  
THE PEOPLE OF THE STATE OF  
NEW YORK

-against-

JOSEPH COHEN, JACOB COHEN,  
DAVID JACOBS and ABE GRAFF.

213 1  
2867  
vd. 1  
: Before:  
: TOMPKINS, J.  
: and a special jury

-----  
Indictment for Murder in the First Degree.  
Indictment filed January 12, 1917.

Monday, June 25, 1917.

A P P E A R A N C E S.

For the People:

MR. ALFRED L. BECKER, Second Deputy Attorney  
General,  
MR. JAMES O'MALLEY, Special Deputy Attorney General,  
and  
MR. GEORGE N. BROTHERS, Assistant District Attorney.

For the Defendant:

MR. FRANK MOSS for Joseph Cohen and Jacob Cohen,  
MR. ALFRED J. GILCHRIST for David Jacobs, and  
MR. HENRY KOPP for Abe Graff.

-----  
(The defendants appear at the bar)

THE CLERK OF THE COURT: Joseph Cohen, Jacob Cohen, David  
Jacobs and Abe Graff, if you intend to challenge an individual  
juror you must do so when the juror appears and before he is  
sworn. Do counsel waive the further giving of that notice?

MR. MOSS: Yes.

CASE 3244

243

(A jury was then empaneled -- 10 jury men being selected, when the Clerk declared that the panel was exhausted.)

(The Court then duly admonished the 10 jurors in the jury box and an adjournment was then taken until tomorrow morning at 10 o'clock.)

TUESDAY, JUNE 26, 1917.

The Court met pursuant to adjournment.

The People vs. JOSEPH COHEN and others, resumed.

Two additional jurors were secured and the box was then filled.

OPENING ADDRESS OF MR. JAMES O'MALLEY, Special Deputy Attorney General, for the People:

X May it please the Court and you, Mr. Foreman and each of you gentlemen of the jury:

On the evening of November 24, 1914, just before 6 o'clock, and after it had grown dark, Barnett Baff, the deceased in this case, answered a telephone call in his place of business in West Washington Market. Immediately thereafter he left his place of business and went out into the street. He had scarcely gone 75 feet when he was approached from behind by two men, each of whom fired a shot that pierced his back -- one piercing his heart and he died almost instantly.

7



Those two men were seen to turn and run southerly in West Washington Market, each carrying a revolver in his hand, and they made their escape in a waiting automobile which disappeared in the darkness.

Immediately a mystery settled down over that case. And for a year and three months the solution of it baffled the police and the authorities of this county.

Now, naturally the question which arose in the minds of the authorities when they took up its solution, is the same question that will concern you. What was the motive for that murder committed in the way in which it was committed? Was the motive for the killing of Barnet Baff confined solely to those two assassins and that chauffeur who took them away from the scene of the murder, or must we look farther for a motive? And were those men simply instruments in the hands of other men who desired the murder of Barnet Baff?

The People charge in this prosecution that there were other persons besides these three men seen on West Washington Market that night, who had a motive to kill Barnet Baff. True, these two gunmen and this chauffeur and the men who worked with them in the execution of the plot, had a motive, according to the People's contention. But that motive was a money consideration -- a motive to kill for hire. And the People contend and claim their evidence will show that the all controlling motive behind

this murder found its inception in a group of men who were engaged in the same general line of business as Barnet Baff, in a group of men of whom these four defendants were but a part. And the names of the members of this group aside from these defendants will be brought out in the evidence as the case proceeds.

The People contend that the men who desired the murder of Barnet Baff had a hatred for him engendered by months and years of business rivalry and hatred; that that hatred was due to the method which Barnet Baff employed in his business which brought him success and which brought substantial financial losses to the men who wanted him killed, and, incidentally, to these defendants.

Now, what was Barnet Baff's business? What was this business and what was his relation to it? And what was the relation of the other men whom the People claim wanted him put out of the way? Barnet Baff was a live poultry dealer -- a wholesale live poultry dealer in this City. The great percentage of the live poultry trade in New York is carried on in West Washington Market; West Washington Market lies on the North River, just below 14th Street. The ordinary street that borders the City on the West is West Street that comes up from the Battery along the North River, and to the west of that are the piers. But when West Street strikes Gansevoort Street just below 14th Street, it becomes 10th Avenue. And to the west of 10th Avenue, set in



243

on it in a little square between the Cunard Pier on the north and other structures on the south, is West Washington Market. With the consent of Mr. Moss, who had very courteously consented that I might refer to this in my opening, I show you a diagram here which will be introduced in evidence which shows West Washington Market set in here (indicating) in the position I have indicated.

Now, in that Market are the men who are in the live poultry business and who control the live poultry business in this City. The stalls are let out to the men by the City. And the majority of the men who do business there are known as receivers of poultry, which I will explain to you in a moment later. The greater portion of live poultry that comes to New York comes from the West. It is shipped here in patent cars. And when the poultry comes to New York it comes into the Pennsylvania and the Erie and the Lackawana yards in New Jersey and it comes in to other yards here in New York City. When it comes here it is unloaded and put into crates and taken to West Washington Market on trucks. The great portion of poultry that comes from the West to the New York market is consigned to men who are known as "receivers". In fact, they are commission men. They receive this poultry, handle it for the owner on a commission basis, and then sell it to a class of dealers who are known as slaughter house men or the real wholesalers in the trade. The poultry is sold to the

slaughter house men in those crates and alive, and it is taken to the slaughter houses throughout the City of Greater New York. It is there again sold by the slaughter house men, or the wholesalers, to the butchers or retailers, and it is killed on the premises before it is sold. And it is a significant fact that 90% of the poultry that comes into the Greater New York market is Kosher killed -- that is, it is killed according to a tenet of the Jewish faith. And 90% of the live poultry is consumed by Jewish people of this City.

Baff entered the poultry business about 1902. prior to that time he had been a butcher in a small way -- a retailer. About 1902 he got his first slaughter house and became a wholesaler, buying from the receivers or jobbers who were then the real sellers in West Washington Market and slaughtering and selling to these butchers. A little later he secured another slaughter house, and by 1908 and 1909 he had two slaughter houses; and while he had the two slaughter houses he came to be a receiver in a small way, -- receiving a car load of poultry now and then from the West. And that was his first direct competition with the receivers of West Washington Market. At the time of his death in November 1914 Baff had four slaughter houses. In 1910 he became a receiver in the true sense of the word and received his poultry the same as the other receivers, and also operated his four slaughter houses.



Now, I want you to note at this time, because it becomes significant as the case proceeds and the evidence is adduced -- bear in mind this fact, that after Baff became a receiver he stood in a different position from the majority of the receivers with the possible exception of one or two. The ordinary receiver is a receiver and a receiver only; he receives his poultry upon commission and sells it directly to slaughter house men, and his profit is confined to his commission. But Baff, in addition to being a receiver, established these four slaughter houses which I speak of, which gave him an outlet for the poultry which he received on commission, and in addition it gave him an opportunity to buy poultry direct from the West -- outright, because he had these slaughter houses to use as an outlet for his excess supply. So that as soon as Baff Established himself as a receiver and increased his slaughter houses to four, it brought him into direct competition with two classes of men -- the receivers in West Washington Market; with them he competed in securing the business of the shippers in the West. And it brought him into competition with the slaughter houses throughout the City because with these four branches which he had he was able to and did compete with the slaughter houses throughout the City.

There is another feature of this business which I wish to point out to you at this time because it becomes quite

important, particularly as it respects the defendant Joseph Cohen, and to some extent, the defendant Jacob Cohen. Several hundred cars of this live poultry comes into this City every month. When it comes here it has to be unloaded. Originally the unloading of the live poultry was in the hands of an association of chicken handlers each of whom was a member of the association and each of whom had his little gang to unload the cars. The chickens are pulled out by these men out of these patent cars with their hands, four or five at a time, and placed in the crates. Joseph Cohen, this defendant, was president of this handlers association about the year 1909 when it broke up, and Joseph Cohen got substantial control of the unloading of the poultry cars for all the receivers in West Washington Market; and today he has substantially all the business there. So that by reason of his position, that made Joseph Cohen, who employed anywhere from 50 to 100 men to unload these cars in the various railroad yards, a practical employee of every big receiver in West Washington Market.

Now, there is another feature of this business which I will speak of at this time very briefly, and that is this: As these patent cars come from the West loaded with thousands of chickens, it is necessary that these chickens be fed, and a loader is put in charge of each car, who is supposed to feed the chickens until they reach the market here in New York. About May 1913 there was a by-



cott in the Chicken Trade. The slaughter house men went out on strike. And we will show you by evidence which connects this defendant Joseph Cohen with it and another man who is named as a co-conspirator in the evidence -- William Simon -- that they were instrumental in forming an association known as the Live Poultry Dealers Protective Association. And the principal purpose of the formation of that association -- that is, the ostensible purpose -- was to eradicate an evil which had grown up and which Cohen and Simon and others charged Baff with having started -- of overfeeding the poultry when they reached the market. In other words, when the poultry got here, they would be starved, say, when they got near Buffalo, and when they got here they were fed something in the nature of a combination which made them very thirsty and then they would be fed upon a paste, gravel and such things, that would kill their crops and increase their weight. That particular form of evil in the trade was charged against Baff. It was charged that he and another man were the originators of it. And in this association which was formed and which grew out of the boycott of May 1913, Joseph Cohen and William Simon were very active from the time it was organized until the time that it went out of business shortly after Barnet Baff was killed.

Now, we don't say at this time that this was a murder organization. That is not our charge. But we do say that

it was an organization through which the defendant Cohen and Simon and other men associated with them adopted an offensive and defensive alliance against Barnet Baff for two principal reasons -- first, they charged him with this overfeeding, and they also charged him with using his slaughter houses branches for cutting the prices and ruining the business of other men. We will show you that at this time Simon was a slaughter house man and that Joseph Cohen was interested in other slaughter houses; and that through business methods which he charged to Baff, he suffered substantial losses in those slaughter houses.

Now then, the People's evidence properly begins in the year 1913. And when we come to that phase of the case the general theory of the prosecution is this: We contend and we claim our evidence will show you, that the conspiracy to kill Barnet Baff originated in the year 1913; that that conspiracy was immediately preceded by acts and declarations on the part of the defendant Joseph Cohen and these defendants and other men concerned with him in this conspiracy, which established their animus and their hatred against Baff. And the People will offer <sup>that</sup> evidence for the purpose of showing the animus and the hostility of Joe Cohen, Jake Cohen and the other men associated with them, against Barnet Baff, prior to the time that they determined he must be killed.



As I told you when I made the general announcement to the Panel, these defendants are not charged as men who actually fired the shot. They are charged as principals in the crime. They are charged with having counselled, aided, abetted and advised other persons. And when his Honor comes to charge you, he will instruct you that under the law of this State one who performs those acts in any particular crime is a principal and that he is just as guilty as the man who fired the shot -- just as legally guilty, and surely far more guilty, *morally*.

Now, gentlemen, the general features of this conspiracy which the People charge in this case are as follows: It was instigated by Joe Cohen and other men associated with him and men whom, through the evidence you will be able to determine, other men whose identity has never been disclosed. Some of the men who were associated with him were William Simon of the firm of Simon & Cohen, who had a place of business up in ~~the~~ Harlem and also down in the east side, and Louis Cohen, the partner of William Simon, and other men whose names will be mentioned here when our testimony comes to be introduced to you.

Between this group of men in West Washington Market who wanted this man killed and the Italian gangsters and gunmen who finally executed the murder, there was a connecting link, and that man was Antonio Cardinale.

Antonio Cardinale was an Italian who had begun

business up in the Bronx early in the year 1913 with another man named Campo, his brother-in-law. He became a live poultry slaughter house man. And the general charge is that after he had failed in business for the first two or three months, David Jacobs, this defendant, became his partner -- David Jacobs, the brother-in-law of Joseph Cohen; that David Jacobs was put into that business by the defendant Joseph Cohen, and that Joseph Cohen financed the partnership. And there was the connecting link between West Washington market on the one hand and the Harlem gangsters and assassins on the other.

How did we discover Cardinale? Now, I think it is very proper for me to say at this time, because Mr. Moss has referred to it in examining you gentlemen, that there have been two prior trials in this case -- I mean in connection with this murder; that the chauffeur who drove the car has been convicted of murder in the first degree, and a man named Arichiello has been convicted of murder in the first degree; and that during these trials and the investigation that preceded them and followed them, this man named Antonio Cardinale was discovered. Where was he? He returned to Italy a few months after the murder -- after it had become too hot for him. The ostensible reason he gave was to enter the Italian army. He was an Italian citizen; and under the Italian law Italy



will not extradite one of its subjects for trial; but they meet that application by saying "We will try him over here for the trial he has committed in your country, if you submit the evidence". And we were confronted with that proposition. And the District Attorney sought to have him returned here.

Now, at this point let me say, when I come to mention the District Attorney, I was at that time on the staff of the District Attorney; I had charge of the prosecution of those other men; I was on the staff of the District Attorney up to May 1st of this year. It has been said here that the Attorney General has been substituted for the District Attorney. Gentlemen, we hope that we can convince you that there is absolutely no significance in that case, in that fact, bearing upon this prosecution or upon the question of whether or not these defendants are going to receive a fair trial. I was appointed a special deputy attorney general to assist Mr. Becker by reason of my experience in the case. And the staff of the District Attorney is represented here in court by Mr. Brothers. The two offices are working in harmony so far as I know. And there is no intention, so far as the Attorney General is concerned, to permit his supersession here to affect in the slightest degree the interests of these defendants, because Mr. Becker and I stand here today to see first of all that these men re-

243

ceive a fair trial, and that if the evidence warrants it -- and only if the evidence warrants it -- that they be convicted.

Cardinale was brought back here against his will. The Italian Government first consented to his return if he would consent; and he refused. And then further application was made and he was sent back here under condition that he should not be prosecuted here and that at the end of the case he should be returned to them to be dealt with there according to law. He has been brought here. And now, what is his status? He is a conspirator in this murder, one of the active moving figures in it, the connecting link, as we claim, between the instigators and the executors. He comes here to testify, knowing he cannot be prosecuted here, but at the same time knowing that he must be returned to Italy.

Now, I am not going to try to deceive you gentlemen at all. We will state to you frankly that if this man Cardinale comes here and tells the truth and renders the service which we think he can render in this case, that the Attorney General and District Attorney will try to help him when he returns to Italy, in order that he receive consideration for the services that he has rendered, if he deserves it.

Antonio Cardinale came to this country about 1900, and he worked at various trades up until 1913 when he and his brother <sup>in-law</sup> conceived the idea of going into the slaughter



243

house business -- his brother-in-law, I think it was, and they rented a place up in Harlem at 406 and 408 East 102nd Street. During that time Antonio Cardinale used to go down to West Washington Market with his wagon and his man to bring up the live poultry, and he used to see Joe Cohen around the market very frequently. And during this boycott in the last two weeks of May 1913, Cardinale met Joseph Cohen, and Joseph Cohen assisted him in securing some poultry after the whole market had been cleared out, the boycott having been broken suddenly and everybody grabbing poultry and going to the market to sell it. And in that way he came to know Joseph Cohen. And Joseph Cohen was of assistance to him in obtaining him credit in a small way while he was of the firm of Cardinale & Campo.

So it went along until the latter part of June, when the firm of Cardinale & Campo was losing their business, losing their money, and they had advertised for sale their premises. And Cardinale met Joe Cohen in the market and he had a talk with him about it. And Joe Cohen suggested that he had a brother-in-law, David Jacobs, who was in the milk business, whom he wanted to get into the chicken business, and suggested that he go into business with him and that he would look after their finances -- see that they got along and see that they got the right poultry, by reason of his position in the market. That was along about the latter part of June or early in July 1913.

Now, about this time, after he met Cardinale, he had talked frequently with Cardinale about Baff, and Cardinale had talked with him; and he said that Baff was the reason why everybody in the business was losing money, it was the reason why Cardinale & Capo lost money, because he was ruining everybody else's business through overfeeding and through his slaughterhouses which cut the prices. And one day in the market, Joe Cohen talking with Cardinale near the telephone booth of Louis Feinstein in Charlie Hawk's stand, which is right here (indicating) -- and perhaps I had better explain this diagram to you at this time briefly; This photograph (indicating) gives a general idea of the Market as it faces the North River there (indicating). And this (indicating) is a street diagram showing how this little Market sets in right close to the river. And this (indicating) shows the stands of the various persons engaged in business there. It says here (indicating) "Baff & Son", down here at Thompson Avenue just off 13th Avenue (indicating). And here (indicating) is the firm of C. Werner Inc. up here (indicating), just near Hawk & Co. where Abe Graff, this defendant, was connected. And in this stand of Hawk & Co. there was a telephone booth used jointly by Feinstein and Cohen who had charge of the general trucking in the Market. And there Joe Cohen suggested to Cardinale that something



ought to be done to scare Baff, and he asked him if he could not get somebody up in Harlem to set a bomb. Cardinale said it might be difficult but he would try.

THE COURT: Do what, you say?

MR. O'MALLEY: To set a bomb in Baff's house. Baff at that time was down in Arverne, Long Island.

He took it up with Sorro who worked for him, and Sorro got in touch with some gangsters in Harlem. And when the question came up as to how they would get the money, Cardinale brought Sorro down to Cohen and said to Joe Cohen "This is the man that is going to do the job". And Joe Cohen said "Go ahead and do a good job, you need not be afraid of your money, somebody else is going to pay me".

And Cardinale got the bomb from Ippolito Greco, whose name will figure in this conspiracy later on, and he brought it to his market. And Joe Sorro and a man named Burke and a man named Tony Nino hired an automobile on Friday evening, July 11, 1913, and they went down to Arverne and they placed that bomb on the veranda of Baff's house and they returned to the City, and the following morning met Cardinale who went with them to West Washington Market because he said the man who would pay them would meet them there. And when they got down there Cardinale brought them in touch with Joseph Cohen, and they asked for their money; and Cohen said he had not seen anything about it in the papers, and that he would not pay it until he

knew the bomb had been set; and it was suggested that they go back and wait and see whether any account was published. And on Sunday, July 13th, there appeared in the New York World an account of this bomb that was set, which was taken down the following morning by Sorro and Burke and Nino and shown to Joe Cohen. And Joe Cohen looked at it and he said "I cannot pay you anything for that because the bomb did not go off". And they said it was not their fault, they had not made the bomb. And after some further talk he said that the men who were to put up the money would not pay him and he would pay \$100. out of his own pocket. And he gave \$100. to Frank Burke, who divided it between Nino and Sorro, and gave Cardinale back \$35. -- \$10. of which he had expended for purchasing the bomb and \$25. of which he had spent for hiring this automobile to go down to Arverne.

With whom did Cardinale talk about that bomb? He said he spoke with Louis Cohen and William Simon and Abe Graff; but nothing was accomplished. And then the question came up, what more could be done to scare Baff. And Joe Cohen suggested that a black-hand letter be written. And Cardinale and Sorro and Burke got up a letter -- written I think by Sorro and copied by Burke; and Cardinale took it over to Louis Cohen of Simon & Cohen, up in 110th Street, and showed it to him. Louis Cohen said that was a good idea, be careful how it was sent.



240  
And Cardinale says the letter was taken out to Connecticut and mailed.

Now, I have not said anything in detail as to how Jacobs came into this firm of Cardinale & Campo. Right after this bomb was set on July 11, 1913, Jacobs buys out Campo's interest in that business; and I think the date was July 28th; and from that time on Cardinale and Campo parted as slaughter house men. Cardinale came to the market two or three times a week to get the poultry, and there every few days met Joe Cohen and Abe Graff and the other men with whom the visits there brought him in touch. And Jacobs was giving most of his attention to the business. From the time that Cardinale and Jacobs started in business there, all the poultry they bought practically was charged to Joseph Cohen at the various houses where it was bought, and then Cardinale & Jacobs remitted to Joseph Cohen. So that at the end of a year, or a little more after the operation, Cardinale & Jacobs had lost considerable money, and they owed Joe Cohen quite a considerable sum.

All the time that this business was running on, Cardinale was talking with Jacobs, and he was talking with Joe Cohen, about their business; and the burden of the complaint of all was that Baff was responsible for the ruination of this business by reason of the way he handled his slaughter houses and the way he cut prices and also over feeding the poultry.

And he was in touch with these men. And then the question came up of a man up in Harlem who had a place on East 109th Street, right near Simon & Cohen's market which was on 110th Street and not very far from where Cardinale & Jacobs had their market in 108th Street. That concern was Newmark & Sons in 109th Street; and they were buying a lot of stuff from Baff. One time I think Newmark and another man were under contract by which they took six or seven cars a week from Baff. But in any event Newmark was a customer of Baff's. And Joe Cohen told Cardinale that that man was helping Baff to ruin the business up there and something ought to be done; and he suggested that a fire be set in Newmark's market. And it was suggested that Joe Sorro, Cardinale's former employee, do it. And they had a meeting up there uptown in Cardinale's market, which was attended by Joe Cohen and Sorro and Cardinale. And Sorro was asked to do the job and he said "I will be damned if I will, I did not get any money for the first job". And Joe Cohen said if he did not want to do it to get someone else. And he went to Ippolito Greco, The leader of the Harlem gang came over and attended that conference, and it was agreed that he would set that fire for two or three hundred dollars -- I have forgotten the figure exactly. And Joe Cohen there directed Jacobs to pay the first payment there, which was 50 or 100 dollars --



which was done. And that very night, <sup>the</sup> nearly next night, the fire occurred in Newmark's market, and burned out a splendid stock of fowl he had in there. Cardinale says that that part of that money came from Simon and Cohen; Joe Cohen told him that half of the money would be paid by the firm of Simon & Cohen; and they did get the money from Simon & Cohen.

In the meantime there had been a suggestion, Cardinale says, on the part of Joe Cohen and these other men, that Baff ought to be killed, but that there never had been a definite request, as I understand his testimony, up until after this fire took place. And later in 1913, he says, some time after the fire which occurred in October 1913, Joe Cohen told him down in the market "This man will never behave himself, he has got to be killed, he will ruin the business of everybody". And Cardinale said it would be a little difficult to get a man, he thought; the amount was mentioned of \$500.; Cardinale thought that that was rather a small sum; but in any event he said he would speak to Ippolito Greco about it. And he did go and speak to Ippolito Greco about it. Greco had a saloon there at 227 East 107th Street. And Greco came down to the market with Cardinale and looked the job over, and came to the conclusion that it was going to be a hard job. Cohen had told him that "everybody hates this man, nobody will make a grab for any man who shoots this fellow down in West

Washington Market, tell him he need not be afraid but it can be done easily". And Cardinale says that Greco demurred to the plan -- he said that at least two men would be required to pull the job off down there because they would be pretty apt to run into a policeman. So there was some delay. And Cardinale spoke to Joe Cohen two or three times about it in the market. Joe Cohen urged that the job be done and that this fellow proceed with it. And Cardinale kept bringing back report "There is not enough money in it, they have to get another man". And so Joe Cohen sent Graff up one night to see Cardinale -- Joe Cohen said he wanted to see him about this job. And he was not in. Finally Cardinale says "I cannot get it through, come up yourself and see him". Cohen said he would go up. A night or two after that the defendants Jake and Joe Cohen came up to Cardinale's Market, and Jacobs was there and Cardinale was there and Joe Sorro was there. And they sent Joe Sorro over for Ippolito Greco, and brought him over, and they had a talk there as to the killing of Baff. And Greco said that \$500. was not enough. And they argued with Joe and Jake Cohen who thought it was enough and it ought to be done for that amount. And they <sup>talked</sup> ~~went there~~ there, and there was something said about seven or eight hundred dollars, and Greco said he would take it up and see what could be done; and they went over to Greco's saloon and



2/3  
had a drink.

Then Greco starts in with his plan; and his first thought of doing the job was in West Washington Market, but after looking it over he said he thought he would take a chance of doing it some other place. And so he told Cardinale that he would try and do it in Brooklyn where Baff had a place of business, and he would go over there on the pretence of buying a wagon and insist on Baff going into his place of business in order to be sure he was there. After trying that a few days a week, that fell through. Then Greco tried the plan of getting him up at 80th Street. He told Cardinale about the plan of getting him through a hole in the fence if Baff came there, and then going out the other way. Then he had the plan when he came to his market in East 109th Street, of getting him at the roof with his rifle. And then Greco suggested the plan of poisoning Baff's milk after it was left on the steps. Cardinale reported that to Joe Cohen. Joe Cohen said "No, that plan would not do. The object was to kill Baff and that might injure his family". So that plan was given up.

Now then, the next plan that was taken up was the plan of having him shot at West Washington Market by having young gunmen going down there to West Washington Market and shooting him through the pocket of the coat. And this Ippolito Greco did have a couple of gangsters whom he took down there

on several occasions. Cardinale saw them up there talking with him -- saw them uptown before they went down; advanced money to Greco to buy them their lunch, and they hung around Baff's place there, and they could not get him because Harry Baff was following his father around. And we will show you that that was the fact -- that during the summer of 1914 Harry Baff was with his father a great deal when he was out on the street.

And then the plan of using a poisoned icepick was tried by Greco with his two youngsters -- they were to get him with that in West Washington Market.

When this plan of getting him in West Washington Market came up -- and, by the way, during all these attempts Cardinale was in communication with Joe Cohen, with Simon and Abe Graff in West Washington Market, with each and every one of them, and they were urging him to hurry it up, saying that everybody wanted him killed and as soon as he was out of the way business would be better for everybody. And when the question came up of having this man killed down in West Washington Market by Greco, the plan of getting a strong-armed man to be on guard down there when the gunmen did their work was brought up, and Abe Graff suggested that Moe Rosenstein would be a good man. And he took Cardinale to Moe Rosenstein there in the market and they told him what the plan was. And Moe said that it would be enough, that they could depend on him, and



213

any bastard that would interfere, he would lay him cold. And the significant fact is that on the night that Baff was shot our proof will show that there was Moe Rosenstein stopping apparently the only man who tried to get those gunmen.

Now then, after the plan failed to get this man down there in West Washington Market in this way, the question came up of getting him with a rifle -- with a Maxim silencer on. And they had to get two new gunmen into the job. And the price I think was raised from 7 or 8 hundred dollars finally to \$1500. When Joe Cohen complained to Cardinale about the delay and Cardinale said he would see what could be done, He got in touch with two new gunmen -- professionals <sup>of</sup> high class. And the price was raised to \$1500. if that job would be done and done well. And the two new gunmen came down and looked over the scene; and it was their first plan to get him with a rifle, with a Maxim silencer.

So Cardinale spoke to Joe Cohen about where they could get such a weapon. Jake or Harry Cohen, his brother, was in the Market I think at the time. And he and Cardinale and the other brother talked. And it was arranged that the following day Cardinale should come down and go with Harry and Jake Cohen to Hoboken where there was a gun store, where they claimed they had an acquaintance where they could get that kind of gun. And the next day they

213

went down and looked over the guns down there. And they saw photographs of them but they could not find what they wanted. And he came back and reported to Joe Cohen. And Joe Cohen advanced him some money and he said "I will tell you what you do, you get it yourself". And Cardinale reported to Greco. And Greco suggested that Cardinale get it because he could speak English. And he went down in the Bowery and bought it from a man down there -- I have forgotten his name for the time being. He bought a .22 Winchester rifle with a Maxim silencer. It took him two or three days to get it. And he took that uptown to his market -- to Cardinale & Jacobs' market. He says that Greco came over there and took practise shots with that gun out in the yard. And he says that the gun was seen by Jacobs, and Jacobs knew what the purpose of the gun was. And then these new gunmen thought of a plan of getting him in a loft. And he spoke to Joe Cohen about it. Joe Cohen said that would be a good idea. And Joe Cohen took him up to the loft there (indicating). There is a landing there (indicating) and there (indicating), and then there is a ladder that runs up over all these stands (indicating). This (indicating) is the stand here of Hawk & Co. And they went through there and they came to a brick wall which shut them off from getting to the further end of the loft that looked down on 13th Avenue between the river and the market. Joe Cohen said that that wall had



210  
been put in there recently because he had been able to get clear through there. And there was so much dust that Cardinale decided that would be a bad place. I think I have mistated that. I think it was then suggested to bring the gunmen down to look over the job. And the next night, towards evening, the gunmen came down with this Maxim rifle in three sections; and Cardinale took them up into Hawk's loft, and they said there was too much dust there. When he got down to a landing he saw some windows looking out to Charlie Werner's stand. And out of these windows he took practice shots with this rifle at a bench there. The gunman said he would stay up there all night and take a chance of Baff's coming there that day. And this other man said "Gee, I was standing there and he might have gotten me". And Cardinale pointed out to him the hole in the bench.

That night that gunman stayed up there in Hawk's loft. Joe Cohen helped to throw up some bags or things for him to sleep on. And the next morning he was discovered by the workman when he came there. And Cardinale had a talk with Joe Cohen. Joe Cohen said "Go and get the rifle and get it out of there". Cardinale went up there and found the rifle. And that day a workman of Hawk's found a box of bullets up there that had been left. X

Then the question came up as to what the next plan would be. Cardinale went and got this gun and gave it to

Abe Graff, and he gave it to a colored man, a witness to be called here. That colored man put it in the coal bin. And he asked him where he put it and he told him, and he said "Take it out of there and put it in the loft". He did.

The next morning Cardinale brought down the gunman again and Abe Graff took him up in Charlie Werner's loft and they sent for the colored man wanting to know as to where the bag was, and the colored man came up and took it out of the coop; and there in the presence of the colored man they took this Winchester Rifle out of the bag and they put it together there. Graff told the colored man something about the gun. And then the question came up of getting a hole through the sheet iron there through which they could point this gun into the street as Baff passed along there. And that day, according to Cardinale and this colored man, this gunman was there, and Abe Graff was there, and with an iron bar they punched out the sheet iron to get room through there, and they sawed out the joists, in order to get a place through which this gun could be pointed. The roof comes together with the floor like that (indicating), and through this cornice there there is a gutter coming up, and they pried out that part there (indicating) between the sheet iron and the gutter. And during that day Cardinale says there were practice shots taken with this



213

rifle up there in Werner's loft. And the significant thing is, that when we came to investigate that loft after these men were placed under arrest -- we went up there, dug through that place filled with coops and everything else -- and, true to Cardinale's story, there was the scantling at which the gunmen had taken their practice shots which contained the bullets, which we will have here and produce to you -- bullets such as could only come out of a Winchester rifle, of that particular make, which we will prove. And there are the marks today in that cornice where they pried apart that sheet iron there where they tried to get Baff as he passed along there on that lower corner (indicating). And the gunman stayed up there all that day and night. He came down without seeing Baff. And Simon came to him and he said "What is the matter"; and he said he did not go through. "Oh, hell", he said, "he passed two or three times today". So that plan failed.

Then the gunmen came to the automobile plan. And they came down two or three times -- sometimes with the automobile and sometimes not. And every time they came down they were in touch with Abe Graff, Moe Rosenstein and Cardinale. And during all this time Cardinale was talking with Joe Cohen and with Simon about it. They told him "All right, get the gun, let us know, we don't want to be here". And these gunmen came down there in the

way I have indicated, on two or three different occasions. And finally it was decided that the week of Thanksgiving, just before the holidays, would be a suitable time to pull this murder off.

And the gunmen, Abe Graff and Cardinale had a conference uptown the Sunday before the murder. Cardinale said they were together two or three hours. It was arranged that they should surely come down on Tuesday. And on Tuesday Cardinale went down, late in the afternoon the gunmen came down. Cardinale said he did not see the chauffeur there, but he understood he was there. And when it came on dark they had been following Baff's movements. Abe Graff said he was going to go in to telephone to see if he was there and get him out. Moe Rosenstein was on hand and he started around here about Thompson Avenue (indicating) where Baff's place of business was. And when Baff came out Rosenstein said he was followed behind by the gunmen and Abe Graff; that when Baff came out, he lifted his hat, and walked on a little further down the street, and he heard the two shots and he turned around and the gunmen started, and a man started after them, and Moe Rosenstein will tell you that he stopped him. And there were people there at hand who helped to carry Baff into his place of business. And Graff and Moe Rosenstein went around Loew Avenue again. Cardinale stayed in the market



only a short time, and he went home. Moe Rosenstein will tell you what occurred later in the market that night.

Now, there are two things that I want to discuss with you at this point. There is the testimony of Moe Rosenstein. You know he has pleaded guilty and he is coming here to testify. As Mr. Becker has indicated, if he is a truthful witness, we are frank in saying that recommendation will be made to the Court, and he may receive some consideration.

This is a peculiar case -- a case of conspiracy in which the People are endeavoring to reach, as we claim, the men who are responsible for it. We want you to know everything that we have done and everything that we have had to do to try to solve this atrocious murder.

Another thing I want to be frank with you about -- that is, with respect to Cardinale. When he comes to mentioning the gunmen, I do not know whether he is going to tell you who they are or not. He never has told the District Attorney. He never has mentioned their names to the District Attorney. It is possible that when he taken the stand here he will not mention them, whatever his reasons may be. It is for you, gentlemen, to determine what his motive is. Does he want to protect somebody? Or is there some other reason why he does not want to divulge those names? I want you, gentlemen, to know

this, because when he takes the stand here you will know the situation.

Now, after the murder is over, in the first place we find Cardinale is in Louis Cohen's place uptown that very night. And at that time Cardinale had been out of business since early in September. He had sold out his interest in the firm of Cardinale & Jacobs, and he was then trying to locate in Brooklyn in a market there, through the help of Joe Cohen, and Cardinale goes uptown and he meets the gunmen; and they say they want money to have the car painted over. He tries to get it from Louis Cohen, and he finally does get it from another party. And then the gunmen insist on their money; and they come to Cardinale and they say "We understood that as soon as this job was pulled off we would have our money". Cardinale, after having that talk, went over to Joe Cohen's house in Brooklyn. Jacobs was there. Joe Cohen came in and Joe Cohen says "Tony, don't come near me, I am being watched by the police, you have got to keep away from me". Tony says "You have got to come to business; if you don't, there is going to be trouble". He says "I will send Abe Graff up with the money". Immediately after that Abe Graff came up with \$500, which was passed over to the gunmen. And then the question came up of the other \$1,000, and the gunmen were threatening Cardinale; and they said "If that money was not forthcoming, they would come down and shoot the whole market up. And Cardinale



finally one day got over to Peaks Slip where he got in touch with Joe Cohen, and he told him this money had to be forthcoming. Joe Cohen told him to be patient. And after he told him if it was not coming there would be danger, he said the money would come up. And the money came up -- \$1000., and he turned it over. After that whatever evidence I mention will be relating to a particular defendant -- because after a conspiracy is over the acts and declarations of any particular man then is admissible only as against himself. When I now mention this evidence, you will simply consider it in connection with the particular defendant.

Cardinale was in touch with Joe Cohen all the time after the murder, after Joe Cohen got out of jail, up until Cardinale went to Italy. From time to time Joe Cohen gave him money, promised to help him to get this market in Brooklyn going, told him all the time to keep away from him because he was being suspected and the policemen were watching him. Nevertheless, he did pay Cardinale money from time to time. And Abe Graff came over to see Cardinale who was at that time working over here in Mulberry Street; and Abe Graff told him this man Moe Rosenstein began to work for Harry Baff and he is going to squeal, he talked with a certain fellow about it; he said "The affidavit that Joe Cohen

got this witness to make to Senator Gilchrist"-- and he says "The son of a bitch ought to be killed". And Abe Graff gave a picture of Moe Rosenstein and himself taken together, and he says "If you kill him there will be \$500. in it". Cardinale said "All right". Cardinale said it was then about the time he was going to Italy and he never did anything about having Moe Rosenstein killed.

And then the question came up as to money if Cardinale went. Cardinale said that he needed some money. Joe Cohen told him he would look out for him, that he would send Abe Graff over here. And after he left Abe Graff did deliver money for a certain length of time to a representative of Cardinale, and it was delivered to Cardinale's people.

Now, gentlemen, I am about through. I have taken more time than I intended to take, but it is a case which I think warrants more or less of a detailed outline in order that you gentlemen may fully understand this evidence when it goes before you.

Now, bear in mind that we have testimony here given by accomplices. Gentlemen, it is not the only testimony in the case. We believe that we will satisfy you that our accomplices are telling the truth, and we believe that we will satisfy you from other evidence tending to connect these defendants with the commission of the crime, that we have made out an overwhelming case, supported amply by corroboration; and we will convince you gentlemen that these



defendants are in this conspiracy, and were in it. As the evidence discloses itself, perhaps you will see there were others concealed behind the screen and there are others that perhaps had more actual driving power than these men.

Now, gentlemen, we want you to approach this case in an absolutely fair attitude. Every witness we call here, we want you to search his testimony. We are going to lay our evidence right before you. Sorro, who used to work for Cardinale, he will tell you frankly, has been indicted over in Queens for setting this bomb; and he has never been tried on that. And I will frankly say to you that he does expect if he tells the truth here, some consideration. I want you to search the testimony of Cardinale from the time he takes the stand until he gets off, and determine in your own minds whether he is telling the truth; determine in the case of every one of these witnesses whether they are telling the truth. First of all, what is their motive for testifying; and, if they have a motive, what is it? And if, notwithstanding that motive, they are yet trying to give you an actual true statement of the facts which took place, you will determine that. This testimony, gentlemen, comes from tainted sources. But we cannot get evidence in a case of this kind from anybody else, as you know. Now, I say to you, after seeing these witnesses and making up your minds whether they are telling the truth or not, then

decide the case. We do not want to convict innocent men. We would not have it done. But we do want justice done here, not only to these defendants, but to the people of this community. And the great responsibility is now, gentlemen, going to rest upon you.

Now, gentlemen, it is hardly necessary for me to state much about the particular crime charged. It is murder in the first degree. The indictment was found on January 12, 1917, after Cardinale returned to this jurisdiction. The defendants are jointly indicted with Moe Rosenstein, who has pleaded guilty and he will testify here for the State. These defendants have elected to be tried together. His Honor will define murder in the first degree to you. It won't be hard for you to understand it as applied to this case, because murder in the first degree is the premeditated and deliberate killing of one human being by another where the killing is not justified or excused. And if these defendants are guilty at all, there can be hardly any question but what they premeditated and deliberated on it, and that they had the intent that this man should be killed.

Now, gentlemen, I have finished. Let each and every one of us during the next few days that we are to give to this trial, give to it our best thought and our best endeavor, with the purpose of doing justice here between these defendants and the people of the State of New York. If these



defendants are innocent, they ought to be acquitted of it, and they ought to be sent home to their families. But if they are guilty of the act which I have now charged against them, I daresay there is not a man in this jury box or in this jury room, who won't agree that they ought to be convicted in order that the safety of property and persons in this great community of ours may be secure.

TIMOTHY D. LEHANE, called as a witness in behalf of the people, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q You are a Coroner's physician of the County of New York? A I am.

Q And you have been such for how many years? A Pretty close to fifteen.

Q During that time have you performed numerous autopsies for the purpose of ascertaining and determining the cause of death? A I have.

Q On November 25, 1914, did you perform an autopsy on the body of one Barnett Baff? A I did.

Q I assume that you performed that autopsy at the Morgue at the foot of East 25th street? A I did.

Q By whom was the body identified to you? A One officer Sullivan of the 14th Precinct, Dennis Sullivan, and a man named Skalka, a relative of the deceased.

Q And it was identified as the body of Barnett Baff? A It was.

Q Did you make an external examination of the body of that person? A I did.

Q Will you tell us what you found with respect to wounds? A I found two bullet wounds on the posterior surface, or his back, confined to the left side. Bullet wound No. 1 was at the tip of the shoulder blade, or scap-



ula, midway of the clavicle, or collar bone. That was the point of entrance. The course was backward and downward --

Q Are you sure of that, backward? A Downward and forward. It came out three inches posterior of the point of insertion. Said wound was a flesh wound.

Q I understood you to say that the course of that wound was downward and forward? A Yes.

Q Then it must have come out in the forward part of the body? A In the posterior surface.

Q The anterior surface, you mean? A Yes.

MR. MOSS: We will make any reasonable concession as to the cause of death.

Q Describe the other bullet wound. A The other bullet wound was on the left side three inches from the median line, about the eighth rib, going forward and penetrating the left lung, and making a ridge, or groove, along the left ventricle of the heart.

Q What did you determine to be the cause of death? A A bullet wound of the heart and lung.

Q Those were the only wounds you found on the body?  
A That is all.

Q I show you a bullet, and ask you if that is the bullet which you extracted from the body of Barnett Baff?

A Yes, sir.

MR. O'MALLEY: I offer it in evidence.

(Received in evidence and marked Exhibit 1)

Q Was death instantaneous, Doctor? Instantaneous, yes, sir.

MR. MOSS: That is all.

MR. O'MALLEY: I introduce at this time, subject to any corrections which the defense see fit to make, a diagram showing the streets along West Washington Market.

(Received in evidence and marked Exhibit 2)

MR. MOSS: I have no objection to that.

MR. O'MALLEY: I also offer in evidence another diagram showing the streets in West Washington Market on a smaller scale, and the surrounding streets to the west and south.

(Marked Exhibit 3)

MR. O'MALLEY: I offer now, if the Court please, as Exhibit 4, a photograph taken from Thirteenth avenue, West Washington Market, looking north from Gansevoort street.

THE COURT: Showing the exterior of the market?

MR. O'MALLEY: Showing the exterior of the market buildings on Thirteenth avenue.

(Received in evidence and marked Exhibit 4)

MR. O'MALLEY: I also offer as Exhibit 5, photograph taken at West Washington Market on Thirteenth avenue looking south from Bloomfield street.

(Received in evidence and marked Exhibit 5)



MR. O'MALLEY: I offer as Exhibit 6, photograph taken of the exterior of the buildings on West Washington Market, taken from the west side of Thirteenth avenue looking south from Hewitt avenue.

(Received in evidence and marked Exhibit 6)

MR. O'MALLEY: I offer as Exhibit 7 another photograph taken from the West side of Thirteenth avenue and looking east on Thompson avenue and showing the approximate location of the business stand of Barnett Baff.

(Received in evidence and marked Exhibit 7)

THE COURT: Do these all go in with the consent of defendant's counsel?

MR. MOSS: Yes, sir.

MR. O'MALLEY: I also offer now, as Exhibit 8, a photograph taken from Pier 53, North River, looking east into West Washington Market.

(Received in evidence and marked Exhibit 8)

DENNIS SULLIVAN, called as a witness in behalf of the people, being duly sworn, testified as follows:

MR. O'MALLEY: I would like to explain this diagram to the jury. I refer now, gentlemen, to People's Exhibit 3, in evidence. It is a diagram which shows West Washington Market on a small scale, and also the surrounding streets. At this corner (indicating) you will find West 14th street crossing Tenth avenue, on which there are two

railroad cars. That runs down and becomes West street when it strikes West Washington market, and just to the west of tenth avenue, or West street, here is Thirteenth avenue coming in here towards the river. On the north is Pier 34 of the Cunard Line, which extends out clear to West street, and then to go into the market you go in through Bloomfield street and down Thirteenth avenue. So the Market is bounded this way, Bloomfield street on the north, Lowe avenue, Hewitt avenue, Thompson avenue, Grace avenue and Ganzevoort street, and cutting these little avenues at right angles is Lawton avenue. Barnett Eaff's place of business was located on Thompson avenue just off of Thirteenth avenue on the southerly side, and by referring to People's Exhibit 2, in evidence, you will get a clear understanding of West Washington Market. This is Thirteenth avenue on the left towards the river, and this is Bloomfield street at the top, through which you would go if you were going to enter the market, and then you can go into the market by walking down West street and going through any of the cross avenues, or going into Lawton avenue and going to Thirteenth avenue and going down. Eaff and Son were located at the southerly side of Thompson avenue, just off Thirteenth avenue, and the Brooklyn Poultry Company's stand was right here where the evidence will show Eaff was shot. (Indicating)

426-3744  
CASE



243  
Here is where the Charles werner stand is and here is where G. Z. Hawk's stand is. Referring to Exhibit 8, I am referring to this point as the Brooklyn Poultry Company's stand, which is just at the corner of Hewitt and Thirteenth avenue. Baff's stand was just one little street below, just off Thompson avenue, and this is Lowe avenue running up here. (Indicating)

DIRECT EXAMINATION BY MR. O'MALLEY:

Q You are a member of the Municipal Police force? A Yes.

Q On November 24, 1914, were you on duty in West Washington Market? A Yes.

Q You were attached at that time to the Fourteenth Precinct? A Yes, sir.

Q Shortly before six o'clock that evening was your attention attracted causing you to go over on Thirteenth avenue? A Yes, sir.

Q Where were you standing at the time your attention was attracted? A Hewitt avenue near Lawton.

Q You were at this point then, referring to people's Exhibit 2, -- you were at Hewitt and Lawton avenues? A Yes.

Q After being spoken to, did you go over on Thirteenth avenue? A Yes, sir.

Q Where did you go to? A Brooklyn Poultry Company's stand, 18 Thirteenth avenue.

Q You went to this point here? (Indicating) A Yes.

Q Whose stand? A Brooklyn Poultry Company.

BY MR. O'MALLEY:

Q That is the southeast corner of Hewitt avenue and Thirteenth avenue? A Yes.

Q Did you know Barnett Baff in his life time? A Yes.

Q Had you met him while you were on duty there in West Washington Market? A Yes, sir.

Q Where was his place of business? A Thompson avenue, a door or so east of Thirteenth avenue.

Q On the south side of the street? A Yes, sir.

Q Do you recall that it was No. 62 Thompson avenue?

A Yes, 62.

Q When you got around there in front of the Brooklyn Poultry Company's stand did you see Barnett Baff? A Yes.

Q Where was he at that time? A Inside the stand laying on a bag of feed.

Q He was off the sidewalk and inside the Brooklyn Poultry Company stand? A Yes, sir.

Q Were there a number of people around it? A Yes, sir.

Q Did you notice then any signs of consciousness, or did he appear to be unconscious? A He appeared to be unconscious.

Q Can you tell us approximately what time you reached there, how long before six o'clock was it? A It was about 5.55.



Q Wasn't that the time you turned in your report, or made the ambulance call? A No, just as soon as it happened I ran up and got the ambulance in about a minute.

Q It was before six o'clock? A Yes, about five minutes before.

Q How long did you stay there where Eaff was? A I just looked at the man when he seemed unconscious.

Q How was he dressed at that time? A He had a frock on, a gray frock, market frock.

Q You mean an overcoat? A Yes, overcoat, and it was a brown suit.

Q He had on an overcoat and an ordinary suit of clothes underneath? A Yes, sir.

Q Did you later see Barnett Eaff's body after it was taken away from the Morgue? A Yes, sir.

Q Where was it taken that night? A To the station house first.

Q While there did you see the clothing removed? A Yes, sir, a part of it.

Q Was that the same clothing that you saw on the body in West Washington Market? A Yes, sir.

Q You testified on the other trial, did you not?  
A Yes, sir.

Q At that time you identified an overcoat? A Yes, sir.

MR. MOSS: I don't think it is necessary to spread these things out, because, as I have said before, we are

ready to make any proper concession as to the cause of death.

THE COURT: The prosecution must prove that, I suppose, the defendant cannot admit it.

MR. O'MALLEY: They can consent to the coat going in.

THE COURT: Yes. It is not necessary to take the clothes out of the bundle.

MR. O'MALLEY: I won't do it.

THE COURT: Just enough to identify them.

Q The following day you went to the Morgue? A Yes, sir.

Q And pointed out the body of Baff to the Coroner's physician, Timothy D. Lehane? A Yes.

Q It was the same body you saw on Thirteenth avenue?

A Yes, sir.

Q When you saw Barnett Baff's body there, and the overcoat he had on, did you notice any wounds he had on him?

A Yes, sir.

Q Where were those? A In the back.

Q What did you do with the overcoat that he wore? A I took them back to the station house and from there down to the property clerk.

Q Did you mark the coat yourself? A Yes, sir.

Q Did you mark them that night? A Yes, sir.

Q Did you mark the same overcoat that was on the body of Barnett Baff when you saw it lying there in the Brooklyn Poultry Company's stand? A Yes, sir.



Q Look at that overcoat and tell me if that is the same coat Barnett Baff had on? A Yes, sir.

MR. O'MALLEY: I will assure the Court that the coat, so far as the back of it is concerned, is in the same condition now that it was when the officer produced it, and as it was on the other trial.

THE COURT: Yes.

MR. O'MALLEY: I offer the coat in evidence.

(Received in evidence and marked Exhibit 9)

Q While you were there that evening at the body of Barnett Baff, was anything handed to you? A A bullet, yes.

Q Where did you see that bullet before it was handed to you? A At the Brooklyn Poultry Company's stand, 18 Thirteenth avenue.

Q Did you see it any place before it was handed to you? A No, sir.

Q I show you a bullet and ask you if that is what you saw there? A Yes, that is the one.

MR. O'MALLEY: I ask to have that marked Exhibit 10, for identification.

(Marked Exhibit 10, for identification)

Q Did you go any place else through the market that night? A I went through Grace avenue south, ~~and~~ Thirteenth avenue, through Grace avenue.

Q When you got there did you see an automobile any place? A No, sir.

Q You went south on Thirteenth avenue to Grace avenue and then went east? A I went East, and Grace avenue.

Q Where did you put in the telephone call for the ambulance? A I called up the ambulance at the northwest corner of Lowe avenue and West Washington Market.

MR. O'MALLEY: At this time I think I will ask this witness to identify this other coat.

Q Look at this coat and vest and shirt and undershirt, and tell me whether those are the same coat, vest, undershirt and shirt that you took from the body of Barnett Raff?

A Yes, sir.

MR. O'MALLEY: I also assure the defense that those were in the same condition now that they were at the time they were produced by the officer, and I ask to have them marked.

(Under coat received in evidence and marked Exhibit 11; vest marked Exhibit 12; outer shirt marked Exhibit 13, and undershirt Exhibit 14.)

Q You personally didn't hear any shots that night?

No, sir.

Q You were around through the market before and after?

Yes, sir.

Q Were the lights in the market lighted that night as usual? A Well, I couldn't say.

Q It wasn't dark, was it? A It was dark.



Q Dark out doors? A Yes, sir.

Q Were the lights in the market burning? A Yes, in parts of the market.

Q When you went in there where Baff's body lay? A Yes, there was a light right there in the door.

Q There was a light there? A Yes, a big arc light in the building.

BY MR. O'MALLEY:

Q The West Washington Market is in the City and County of New York, is it not? A Yes, sir.

CROSS-EXAMINATION BY MR. KOPP:

Q How long had you had that post, Mr. Sullivan?

A About four years.

Q Are you still on the same post now? A Yes, sir.

Q Do you know this defendant Graff? A Yes.

Q Did you know prior to the Baff murder where Graffe was employed? A Yes, sir.

Q Did you also see him at his place of business?

✓ A Mr. Graffe?

Q Yes. A Yes, sir.

Q Do you know the other defendants? A Yes, sir,-- I don't know the second defendant there.

Q You don't know Jacobs? A No, sir. (Indicating Jacobs)

Q What time do you say you reached Baff's body?

A About five minutes or seven minutes to six, as near as I can say, about 5.55.

Q Were there a lot of people around? A Yes, sir.

Q You didn't hear the shots fired, did you? A No, sir.

Q Did you see Graffe anywhere near the scene of the shooting that night? A No, sir.

Q Did you ever see Graffe that day at all? A I don't remember that I did.

Q What? A I don't remember I seen him that day.

Q You don't remember whether you saw him at all?

A No, sir.

Q Do you know Moe Rosenstein? A Yes, sir.

Q Did you see Moe Rosenstein around the poultry yard where Raff's body was found? A No, sir.

ISIDORE BLATT, called as a witness in behalf of the people, being duly sworn, testified as follows; through an interpreter:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q Where do you live? A 13 East 112th street.

Q Where are you working now? A I work at Washington Market.

Q For whom? A I don't work at present steady, only whenever I can get a job.

Q On November 24, 1914, were you in the employ of Garlick & Danniger? A Yes, sir.

Q Their place of business is ~~is~~ located on Thirteenth avenue right next to Barnett Eaff, and runs from Thompson to Grace avenue, does it not? A Yes, sir.

Q In the neighborhood of six o'clock on that evening did you see Barnett Eaff? A Yes, sir.

Q Where did you see him when you first did see him?  
A He just walked past me.

Q At the time, where were you standing? A On the corner.

Q You mean at the corner of Thompson and Thirteenth avenue in front of Garlick & Danziger's stand? A Yes, sir.

Q When Eaff passed you, from which direction was he going? A He was coming from the direction of his stand.

Q Then he was going towards Thirteenth avenue on the southerly side of Thompson avenue? A Yes, sir.

Q Where did you see him go when he passed you? A After he had passed me I saw him and thought he was going across to a certain stand.

Q Did he reach Thirteenth avenue and then turn?  
A Yes, sir.

Q Did he turn uptown or downtown?

MR. MOSS: Please ask him --

THE COURT: Ask him which way he turned.

Q Which way did he turn? A This direction. (Indicating)

Q That is, he turned northerly on Thirteenth avenue?  
A Yes.



THE INTERPRETER: I use the word "uptown" for north, because he don't know the country.

THE COURT: Yes.

Q Where was he when you last saw him? A That was the last time when I saw him after he had passed me.

Q After he passed did anything attract your attention?

A I heard a shot.

Q After hearing the shot, in which direction did you look? A I looked in the direction where the shot came from.

Q What did you see when you looked in that direction?

A I couldn't see anything, because shortly after the first shot there was a second shot exploded, and then I saw smoke, and I saw him lying.

BY THE COURT:

Q Saw who lying? A Baff.

BY MR. O'MALLEY:

Q After you heard the first shot and you looked up there did you see Barnett Baff?

MR. MOSS: If not too much trouble, just let him tell what he saw.

BY THE COURT:

Q After the second shot what did you see? A I didn't see anything except him lying.

Q Where was he lying? A Upon the sidewalk opposite the stand.

Q Did you see Barnett Eaff at all after he passed you, and before you saw him lying on the sidewalk? A Yes, sir.

Q Tell me where you saw him and what you saw him doing at that time. A After he was shot the first time he made an exelamation, "Ay," and he was falling to the side.

THE INTERPRETER: The witness indicates the right side.

Q After you saw him there, -- stand up and tell us, if you can, in what position you saw Mr. Eaff as you saw him falling.

THE INTERPRETER: The witness indicates a falling position to the right, with one arm extended on high and the other arm hanging down.

BY THE COURT:

Q That was after the first shot? A Yes, sir.

Q And before the second shot? A Immediately, that moment he received the second shot.

MR. O'MALLEY: As the witness illustrated, he had his left arm raised?

THE INTERPRETER: Yes, raised.

BY MR. O'MALLEY:

Q After you saw Barnett Eaff fall, tell us what else you saw. A I didn,t go near, -- I only saw two men run past me with pistols in their hands.

Q At the time they passed you, were you still on

the sidewalk in front of Garlick & Danziger's stand? A Yes.

Q When they passed you they were going south, were they?

A Yes, sir.

Q Describe generally the two men that you saw running, each of whom had a pistol in his hand. A I cannot describe them, because I was looking only at the pistols and not at their faces.

Q Did you notice where the two men went? A They jumped into a machine, into an automobile.

Q Where was the machine standing at the time the two men jumped into it? A At the corner of Ganzevoort street.

Q And on Thirteenth avenue? A Yes, sir.

Q After you saw them get into this car, tell what you saw, if anything, the car do. A Went away, rode away.

Q Did you notice anything about it as it went away?

A As soon as they entered the car, the car immediately went away.

Q Did you notice anything behind the car, did anything attract your attention? A No, sir.

Q And did you return to where Mr. Eaff was? A No, sir.

Q You went back to the Garlick & Danziger stand? A I remained standing and watching the goods on the stand.

CROSS-EXAMINATION BY MR. MOSS:

Q When did you see those men running by you, after the second shot? A Within a second.



Q It was right away, was it? A Yes.

Q Did you watch those men all the way when they went to the automobile? A Yes, sir, because there being people run after them, people were running after them and they shouted, "Hey, hey!"

Q Did those men run? A Sure they run.

Q Did you see them get into the automobile? A Yes.

Q Did you see any one try to stop them? A Yes, -- for instance, they were running after them, and they shouted, "Hey, hey!"

Q How many people were running after them? A Either one or two-- one.

Q Did you see whether any one spoke to the one who was running after them? A No.

Q Nobody spoke to him at all? A No.

CROSS-EXAMINATION BY MR. KOPP:

Q How long were you working for Garlick & Dansiger just before Baff was killed? A A couple of months.

Q The Baff place of business was on Thompson Avenue was it not? A Yes, it was on this corner of Thompson Avenue, and I was working around the corner.

Q You said on November 24, 1914, you saw Baff come out of his place of business and then turn off on Thirteenth Avenue, is that correct? A I was standing exactly on the corner and Baff was coming from here (indicating), from Thompson Avenue, and he was going past me, going towards

uptown, and I was standing here on the corner.

Q Which avenue was better lighted, Thompson avenue or Thirteenth avenue that night, if you know? A It was light all around, and you could see there as well as you could see here.

Q How many stands are there on Thompson avenue from Garlick & Danziger's place of business to Lawton avenue, do you know? A I don't know which is Lawton avenue, -- do you mean to the next corner?

Q Yes, the next corner east. A From the place where he was shot?

Q No, from your place, from the place where you worked? A Is that towards uptown or downtown?

THE COURT: You can prove that by somebody else.

Q Is there a stand in front of your place of business, a chicken stand? A Yes.

Q Was there a stand in front of Baff's place of business? A Yes.

Q Is there a stand in front of every place of business on Thompson avenue? A Yes.

Q Was there a light in front of every stand that night? A There is a light in front of every stand with the exception of the place where the automobile was standing, there was no light.

Q Were you standing on the curb or were you standing close up to the building when Mr. Baff came along? A The curb.

Q You were watching the unloading of some goods that were going into Danziger's place of business? A Yes, sir.

Q Did Baff cross Thompson street or Thompson avenue? A Yes, sir. Assuming that I was standing here on the corner (indicating), Baff passed me and crossed in this direction.

Q So you were standing on the curb of Thirteenth avenue looking through Thompson street in the direction of West street, were you? A I was standing here and I was looking towards Baff's stand.

Q And weren't you looking at the work that was going on in front of your own place of business? A I was standing on the corner and the goods were already placed on the sidewalk.

Q And you were watching them? A Yes, sir.

Q And Mr. Baff came out of Thompson avenue, his place of business, crossed Thompson avenue and went north on Thirteenth avenue? A Yes, sir.

Q And the last you saw of him was as he passed by you going up Thirteenth avenue, passed by you on the left hand side of yourself? A Yes, and after that I heard a shot and looked.



BY THE COURT:

Q Did he fall on Thirteenth avenue, the sidewalk?

A On the sidewalk.

BY MR. GILCHRIST:

Q On Thirteenth avenue? A Yes, on Thirteenth avenue.

THE COURT: Does the photograph show the place where he fell? It would be well to have the witness mark it. It was outside on the street?

MR. O'MALLEY: Yes, sir.

BY MR. O'MALLEY:

Q I show you People's exhibit 6, in evidence, which was taken from the west side of Thirteenth avenue looking south towards Hewitt avenue, and ask you if that isn't the place of the Brooklyn Poultry Company right there on that corner? This shows Thompson avenue, Baff's place, and there is Garlick & Danziger's place on the southeast corner of Thompson and Thirteenth. (Indicating) Now, the Brooklyn Poultry Company's stand was just above Thompson avenue and at the corner of Hewitt avenue? A Yes.

Q When you saw Baff, after you heard the shot, he was in front of the Brooklyn Poultry Company's stand, was he, on the sidewalk? A Yes, on the sidewalk.

Q When you told counsel that there is a chicken stand on the sidewalk in front of Garlick & Danziger's place, don't you mean that a coop stood out there? A Yes, there was standing out there two or three coops, not much.

51  
324  
1000

SAMUEL FEINBERG, called as a witness in bc-52  
half of the people, being duly sworn, testified as  
follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q Where do you live? A 190 Clinton avenue, Jersey  
City.

Q November 24, 1914, were you in West Washington Mar-  
ket? A Yes.

Q Did you hear the shots that killed Barnett Baff?

MR. MOSS: I object to that.

THE COURT: Yes, did he hear any shots.

Q Did you hear shots? A Yes.

Q Where were you at the time? A In front of ~~Barnett~~  
saloon there.

Q What did you do? A I walked up towards the place  
where it happened.

Q When you got there, what did you see? A We seen  
the man lying dead on the sidewalk.

Q Who was he? A Old man Baff.

Q Barnett Baff? A Yes.

Q When you say "sidewalk," you mean near the Brooklyn  
Poultry Company stand? A Right on the sidewalk there.

Q Did you see anybody else on the street there? A No,  
I seen the crowd around.

Q Did you see anybody running? A Not at the time.

Q Did you see anybody run away? A There was a whole

lot of them running together, like, you know, I couldn't say exactly whether they were running away or running with the crowd.

THE COURT: You have shown that by the last witness, there will not be any dispute about it.

Q Did you go near where Barnett Baff was? A Yes.

Q Tell me what you noticed in regard to his clothing, or anything found there. A All I seen when he was lying on the sidewalk, they picked him up and took him inside the stand like, they call it, and laid him there on some bags of feed they feed chickens with.

Q Did you find anything on his clothing? A Harry Baff unbuttoned his clothes like, and he found a bullet.

Q Where did he find it, in front? A Yes.

Q On the coat. A Yes.

Q What did you see him do with that bullet? A I seen him --

Q Did you see a police officer there? A Yes.

Q Do you know what police officer it was? A Yes.

Q Who? A A fellow by the name of pennis.

MR. MOSS: Pardon me, I have several times suggested it. This is very leading.

THE COURT: It is not very important.

MR. MOSS: I know, but it will go into other matters.

THE COURT: When it comes to matters of importance, he will not lead.



Q What did you see Harry Baff do with this bullet that you say you saw him find in Barnett Baff's clothing? A I think he handed it to a policeman.

Q Do you know who the policeman was? A Yes.

Q Who was it? A They called him Dennis.

Q Do you know his last name? A No, I do not.

THE COURT: The Officer testified to all that, there will be no dispute as to those matters.

MR. MOSS: No, it is conceded that the Officer was Dennis Sullivan.

MR. O'MALLEY: Then I offer this bullet in evidence, Exhibit 10, for identification.

(Received in evidence and marked Exhibit 10)

THE COURT: We will now take a recess.

Gentlemen, I do not give you this caution because I think it is necessary, but because the law requires that at every recess, every adjournment, in a criminal case, the Court should admonish the jurors not to converse among yourselves about the case, not to permit any one to speak to you on any subject in connection with the trial, and I think I will ask you to refrain from reading newspaper accounts of the trial, just skip that over when you read your newspapers, so that you will get no impression concerning the case except what you get from the testimony here on the witness stand.

Recess until 2 P. M.

FRANK V. CUMMINGS, a witness called in behalf of  
having been duly sworn, testified as follow.

DIRECT EXAMINATION BY MR. O'MALLEY:

Q Where do you live? A No. 327 East 79th street

Q And on November 24, 1914, where were you employed?  
Century Bank.

Q Where is that located? A 135 Fifth avenue.

Q On the evening of that day did you have occasion to go  
to West Washington Market? A I did.

Q And who went with you? A Four other employees of the bank.

Q When you got there first, where did you and the other  
four employees go? A Garlick & Dansiger's booth.

Q And that was at the corner of Thompson Avenue and Thir-  
teenth avenue? A Yes, sir.

Q You went there to buy some turkeys, did you not? A Yes.

Q While in that stand of Garlick & Dansiger's, did anything  
attract your attention? A A noise.

Q What was the nature of the noise that attracted your  
attention? A It sounded like two automobile tires bursting.

Q And after hearing those two noises that you have described  
what did you do? A We walked out to the front of the booth.

Q Did you reach the sidewalk or were you still on the  
edge of the stand? A Still on the edge of the stand.

Q These stands are open in front from the sidewalk up to the  
jamb of the door? A Yes, sir, they are all open.

Q There are sliding doors that go up? A Yes, sir.

Q And that leaves the floor of the stand on a level with the sidewalk? A Yes, sir.

Q And there is nothing substantially between the stand and the sidewalk? A That is right.

Q When you came out to the point where you indicated you said, what did you see? A I seen a man running by.

Q What did you notice about the man? A He had a revolver in his hand.

Q And which way was he running? A Running south.

Q On the sidewalk or in the street? A On the sidewalk.

Q Did you notice where the man went? A He went down about two blocks, and he stepped in an automobile.

Q Did you get a general view of the automobile? A I got the outline.

Q Did it have a cover on or not? A Yes, sir, it had a cover.

Q Was the cover up? A The cover was up, yes, sir.

Q After you saw this man get into this automobile, where did you see the automobile go, if any place? A The automobile went east.

Q Do you know what street it went through east? A No, I don't know what street it is.

Q But the automobile stood, as you saw it, about two blocks below where you were? A Yes, sir.

Q Did you notice anything particular about the automobile as it started up? A It started up in a hurry.



Q How soon after this man got into it? A He was just about in it when it went off.

Q Did you see any other person in the automobile that went away? A No, I did not notice anybody else.

Q After seeing that, where did you go, if any place? A We looked up the street, and there was a crowd up the street on 13th avenue.

Q About where was that crowd? A At the other side of the street.

Q That is, the other side of Thompson avenue? A The other side of Thompson avenue, yes, sir.

Q Did you go up there? A Yes, sir.

Q When you got there what did you see? A I noticed a crowd and there was a man lying on the street.

Q Did you know that man at that time personally? A No, sir.

THE COURT: You have proved all that.

MR. O'MALLEY: Well, that is all. You may cross-examine

Mr Moss.

CROSS EXAMINATION BY MR. MOSS:

Q You saw one man running? A One man, yes, sir.

Q You didnt see two men running? A No, sir.

Q Was he running or walking fast? A He was running.

Q Did you see any one attempt to interfere with him? A No.

Q Anybody near him at all? A No, sir.

Q Anybody follow him? A No, sir.

Q And where was he when you first saw him? A Right in.

Case 374

front of me.

Q In front of Dansiger's stand? A In front of Dansiger's stand, yes, sir.

Q So that you saw him from Dansiger's stand down to the time he got in the automobile? A Yes, sir.

Q And during that time, while your eyes followed him, no one tried to stop him? A No, sir.

Q And no one spoke to him? A No, sir.

MR. MOSS: That is all.

REDIRECT EXAMINATION BY MR. O'MALLEY:

Q (Handing) I show you People's Exhibit 2 in evidence, and I show you Garlick & Danziger's stand. I understand that is where you stood there (indicating)? A Yes, sir.

Q And the automobile stood probably from you about how far? A About here (indicating).

Q Just mark where the automobile was when you saw it. Mark a cross there? A There (indicating).

MR. O'MALLEY: The witness puts a cross at the northeast-erly corner of Gansevoort Street and 13th avenue.

Q And you mark that with a cross where you stood? A There (indicating).

Q Mark about where you saw the body of the man that you saw? A There (indicating).

MR. O'MALLEY: The witness has made three crosses and points.

That is all.

MR. MOSS: That is all.

ABRAHAM LOWENSTEIN, a witness called in behalf of the People.

Having been duly sworn,, testified as follows:

DIRECT EXAMINATION BY MR. BECKER:

Q Where do you reside? A No. 1774 East 14th street, Brooklyn.

Q What is your business at present? A Inspector of live poultry.

Q On November 24, 1914, what was your business? A In the poultry business in West Washington Market.

Q What was your business connection at that time? A I was interested with the Brooklyn Poultry Company.

Q Where was the stand of the Brooklyn Poultry Company located? A Corner of 13th avenue and Hewitt Avenue.

Q (Handing) I show you this plan, Exhibit 2; West Washington Market is a market which belongs to the City of New York, is it not? A Yes, sir.

Q And it consists of ten blocks as shown on Exhibit 2, does it? A Yes, sir.

Q Bounded on the north by Bloomfield street and on the south by Gansevoort street? A Yes, sir.

Q Those are wide city streets of the ordinary sort? A 13th avenue is a pretty wide street.

Q And Bloomfield and Gansevoort streets are rather wide streets? A Yes, sir.

Q Then to the west the north and south street is 13th Avenue? A Yes, sir.

Q To the east of the market the north and south street is



West street? A Yes, sir.

Q Those are also wide streets? A Yes, sir.

Q Now, the market is bi-sected by another street north and south, is it not? A The center street there is Lawton avenue.

Q It is also cut up into sections by streets running east and west? A Yes, sir.

Q Name those streets in their order from north to south?

THE COURT: Isn't this plan in evidence? Why repeat it. There won't be any dispute about it.

Q These streets that run from east to west known as Hewitt, Thompson and Grace avenues, are approximately how wide from curb to curb?

THE COURT: Does not the map show? Isn't it drawn to scale?

MR. BECKER: It does not seem to be, your Honor.

Q Do you know about how wide? A I should judge about twenty feet.

Q That is from the curb on the north side to the curb on the south? A Yes, sir.

Q Please indicate on that map where the Brooklyn Poultry Company's stand was located in November, 1914? A About here (indicating).

Q That is, you indicate the southeast corner of Hewitt and 13th avenues? A Yes, sir.

Q Please indicate where Barnett Baff's stand was located?  
A Right here (indicating).

Q You indicate the first stand from the corner on the south side of Thompson avenue proceeding easterly from 13th Avenue? A Yes, sir.

Q Please indicate where G. Z. Hawk & Company's stand was located? A On Loew avenue.

Q You indicate the southwest corner of Lawton and Loew Avenues? A Yes, sir.

Q Where was Charles Werner's stand located? A On the other side of Loew avenue.

Q Just opposite to the north there on this side of Loew avenue from Hawk & Son's place? A Yes, sir.

Q Indicate Henry Bzdecke's saloon, where it was located? A On this corner (indicating).

Q That is the southeast corner of Bloomfield Street and Thirteenth avenue? A Yes, sir.

Q Please indicate where Garlick & Danziger's stand was located? A There (indicating).

Q You indicate on the east side of 13th avenue between Thompson and Grace avenues? A Yes, sir.

Q And kindly indicate where Fleck & Hillman's stand was located? A On Loew avenue and go through to Bloomfield street.

Q About midway between Thirteenth avenue and Lawton avenue? A Yes, sir.

Q How long had you been in the poultry business in West Washington market up to 1914-- about how many years? A About 32 or 33 years.

Q You were familiar and acquainted with most of the men in the market? A Yes, sir.

Q On the 24th of November, 1914, just before Barnett Baff was shot, where were you? A Just before he was shot I was down on the sidewalk.

Q In front of your stand? A Yes, sir.

Q The Brooklyn Poultry Company's stand? A Yes, sir.

Q Did you see Barnett Baff? A No, I did not see him just before he was shot. I might have seen him walking around down there during the afternoon.

Q Just before he was shot you say you did not see him?  
A No, I did not see him just before he was shot.

Q What attracted your attention, if anything, to the shooting?  
A I was inside of the stand when I heard the shot.

Q You were back in the back part of the stand? A Yes, sir.

Q And you heard the shot? A Yes, sir.

Q And what did you do then? A I run out in the street, and I heard Mr Baff holler, "I am shot", and as I come on the street I see two men running, and I run after one of them.

Q Kindly indicate where you saw them? A About here (indicating).

Q That is about where the cross mark appears there (indicating)?  
A No, a little above that.

Q A little north of the "X" mark, more towards Hewitt avenue there? A Yes, sir.

Q You spoke of ~~me~~ running after him. What did you see the



men do? A All I see they were running.

Q Which way were they running? A Towards Gansevoort street.

Q How many of them were there? A Two.

Q Where were they running? A One was on the sidewalk, and one was in the center of the street.

Q And what did you see them do? A As far as I seen them do, I seen one of them jump on the runningboard of the machine.

Q Where was that machine? A Corner of Gansevoort street and Thirteenth avenue.

Q Corner of Gansevoort street and Thirteenth avenue?

A Yes, sir.

Q Do you know a man named Moe Rosenstein? A Yes, sir.

Q Did you see him just then? A Yes, sir.

Q State what happened? A As I run after this one man, why he came right in front of me at the corner of Thompson and 13th avenues, and got right in front of me and told me not to run-- put up his hands to stop me from running.

THE COURT: Where were you when he stopped you?

THE WITNESS: At the corner of 13th avenue and Thompson avenue.

Q At that same time did you see any of the defendants, or shortly thereafter? A I seen one of them after that.

Q Which one did you see? A Joe Cohen.

Q One of the defendants here (indicating)? A Yes, sir.

Q Just point him out please as he sits at the table? A The gentleman sitting over there (indicating).

Q The one who just arose? A Yes, sir.

Q And state the name of the man sitting next to him?

A Jake Cohen.

Q And the next one? A The next is Mr Jacobs.

Q And the next? A Mr Graff.

Q State how soon after the shooting of Baff you saw Joseph Cohen? A Well, I should judge it was about fifteen minutes or half an hour. They had Mr Baff's body inside of my place of business, and I pulled the doors down to keep the crowd out, and Mr Cohen came along then and looked over the door; I could not judge how long it was-- may be fifteen minutes to half an hour.

Q What else did you see him do at that time? A That is all--looked over the door and walked away.

Q Did you see any of the other defendants about that time?

A No, sir.

Q Do you know whether any of the others were there or not?

A They might have been there, but there was such a crowd there I could not distinguish everybody.

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

THE COURT: Yes, strike it out.

BY THE COURT:

Q You did not see them there? A No, sir.

BY MR. BECKER:

Q Your answer is you could not state whether other of the defendants were there or not? A No, sir.

Q Kindly indicate on Exhibit B the point where you were when Moe Rosenstein stopped you? A This is the saloon (indicating); I was right on the sidewalk at this end (indicating.)

Q Take a pencil and mark it with the letter "L"? A Yes, sir. (Witness does so.)

Q You did not get down as far as Garlick & Danziger's place? A No, sir.

Q You were stopped before you reached there? A Yes, sir.

Q Are you acquainted with all the defendants? A Yes, sir.

Q Have you been for some time? A Yes, sir.

Q Were you acquainted with the deceased Barnet Baff? A Yes.

Q In November 1914, what was Barnet Baff's business? A Commission business-- commission business in live poultry.

Q That is what is commonly known as a "receiver"? A A receiver, yes, sir.

Q Was he in partnership with any one at that time? A With his son.

Q Which one? A Harry.

Q Had Barnet Baff other sons besides Harry? A Yes, sir, two other sons--Harry and Izzy.

Q Willie and Izzy? A Willie and Izzy.

Q What was the business of the defendant Joseph Cohen in the month of November, 1914? A He was contracting for unloading live poultry for the receivers at West Washington Market.

Q State in a general way what his business was where he



unacted it at that time? A He unloaded all the poultry  
er at the railroad.

Q Unloaded it at the railroad yards? A Yes, sir, be-  
fore they put it on to the trucks to bring it to the market.

Q Had he any partner in tha t enterprise? A Not that I  
know of.

Q Is there any relationship between the defendant Joseph  
Cohen and the defendant Jacob Cohen? A They are brothers.

Q What was the business of the defendant Jacob Cohen  
at that time? A He was working for Joe Cohen--acting as fore-  
man.

Q In the unloading business? A In the unloading business,  
yes, sir.

Q Was there any relationship, by marriage or otherwise,  
between the defendant Joseph Cohen and the defendant David  
Jacobs, if you know? A As far as I know Mr Jacobs married  
Mr Cohen's sister.

MR. MOSS: I object to that.

THE COURT: Objection sustained.

Q Do you know whether or not there was such relationship?

A Yes, sir.

Q What was the relationship? A Brothers in law.

Q Do you know by reason of what marriage that relationship  
was created? A No, sir, I do not.

Q What was David Jacobs business at that time? A He was

in the slaughter house business on 108th street.

Q Do you know whether he was in the business right up to the time of the murder or not? A That I don't know.

Q He had been before that? A He had been before that, yes, sir.

Q And do you know who his partner had been? A Yes, sir.

Q Who? A Cardinale.

Q Antonio Cardinale? A Yes, sir.

Q What was the business of Abraham Graff, one of the defendants, at that time? A He was salesman for Charlie Werner.

Q The same party whose stand you have pointed out on Exhibit No. 2? A Yes, sir.

Q What was the business of Charles Werner? A He was a jobber.

Q Just explain what a jobber was and what a commission man or receiver was? A A receiver gets wholly on commission; and Charles Werner used to get some express shipments but no car-load shipments,-- and we call them jobbers.

Q Did the jobbers obtain from any other source the live poultry? A Only from the commission men, and what they got by express.

MR. BECKER: That is all.

CROSS EXAMINATION BY MR. GILCHRIST:

Q You say that he was a brother in law of Joseph Cohen-- Jacobs? A Yes, sir.

Q All you know about that is what some one else told you?

A That is all I know--what I heard in the market.

Q You don't know his wife? A I do know her.

Q You don't know of your own knowledge who she is related to-- of your own knowledge now? A I do, yes, sir.

Q How do you know his wife? A Because I know the whole family for a good many years.

Q Did he tell you that it was his wife? A I was introduced to her.

Q By whom? A By Mr Cohen.

Q But not by Mr Jacobs? A Not by Mr Jacobs.

Q Then all you know is what some one else has told you?

A Yes, sir.

Q And in the same way you are quite as willing to swear that Mr Jacobs was in the slaughter house business at that time? A I did not know at that time. I said around before that.

Q Didn't you when the question was asked what business was Mr Jacobs in at that time, reply that he was in the slaughter house business? A I did not know that he was in it at that time. I know he was in it before that.

THE COURT: He corrected himself in regard to that afterwards I think.

MR. MOSS: I will reserve my cross-examination.

THE COURT: Yes.

MR. BECKER: That is all.



HARRY BAFF, a witness called in behalf of the People, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q Where do you reside, A No. 10<sup>0</sup> West 119th Street.

Q What is your business at the present time? A Commission merchant live poultry.

Q What is the name of your concern? A B. Baff & Son.

Q You are a son of Barnet Baff, deceased? A Yes, sir.

Q At the time of his death were you doing business under the same name as you are today? A Yes, sir.

Q And you were a member of the firm, were you not? A Yes, sir.

Q And your father was the senior member of the firm?

A Yes, sir.

Q How old was your father when he died? A 52.

Q How old are you? A I am 34.

Q At the time of your father's death where was he living?

A The same place where I am living now. My father was at 76 West 120th Street.

Q Do you recall when your father entered the meat business?

A Yes, sir.

Q In what line did he first engage? A In the butcher business.

Q About what year was that? A About 20 years ago.

Q Was it about the year 1900? A Yes, sir.

Q How long did he engage in the butcher business? A About 8 years.

Q Did he afterwards enter any other business? A The live poultry business.

Q In what branch did he first enter? A No. 618 West 39th Street --

Q I know, but what line? A Distributing line -- selling to butchers.

Q Was that what they call "slaughter house"? A Slaughter house, yes, sir.

Q About what year did he enter that? A About 14 years ago. That is 1904.

Q He established his first slaughter house at 618 West 39th Street, you say? A Yes, sir.

Q Did he afterwards establish another slaughter house?  
A Yes, sir.

Q Where? A At 526 East 80th Street.

Q In the Borough of Manhattan? A Yes, sir.

Q About what year was that established? A It was four years later, when we opened that 39th Street place up.

Q Did he ever enter any other branch of the business besides the slaughter house? A Yes, sir, we went in the commission business in West Washington Market.

Q By that you mean what? A Receiving poultry in car lots.

Q About what year did you enter the receiving business in West Washington Market? A 1910.

Q And then did you establish in the same place where you now are? A Yes, sir.

Q And you have always conducted the receiving business at that particular address, 82 Thompson Avenue? A Yes, sir.

Q After your father entered the receiving business did he, or did he not, continue the slaughter house branch?

A Yes, sir.

Q And when he entered the receiving business did he still have his slaughter house at the place mentioned? A Yes, sir.  
did

Q At a later date/he acquire another slaughter house?

A Yes, sir.

Q About what year was that? A We opened up a branch in Brooklyn about 13 years ago -- 1904 that would make it. And then we opened up a branch in Webster Avenue 4 years ago -- that is about 1913.

Q By "Webster Avenue" do you mean in the Bronx? A Yes, sir.

Q And did you later in that year acquire another branch?

A That is all I believe.

Q Did you ever have a branch on East 109th Street?

A Oh, yes, sir, sure.

Q Did you acquire that later in the year 1913? A Yes, sir.

Q At the time of your father's death how many slaughter houses did your firm have? A We had Brooklyn, 80th Street, 109th Street and Webster Avenue.

Q Four? A Four.

Q And your main place of business was in West Washington Market? A Yes, sir.

Q Now, as a receiver, will you describe very briefly what



your business consisted of? A My business consisted of receiving live poultry in car lots on consignment, and what I could not get on consignment I used to buy outright on track all over the country -- shippers point.

Q You received poultry on consignment from western shippers, did you? A Yes, sir.

Q And how did you distribute that. As a rule how did you distribute the poultry which you received on commission?

A Most of my poultry which I received I had to give to my own branches -- because I could not depend on any trade as my competitors would bulldoze --

MR. GILCHRIST: I move to strike that last out.

THE COURT: Strike it out.

Q Just answer the question? A Yes, sir.

Q Did you dispose of some of the poultry which you received on commission, to slaughter houses other than your own?

A Yes, sir.

Q And when you thus sold your poultry you sold it on a commission basis? A Yes, sir.

Q Did you also dispose of some of the poultry which you received on commission through your own slaughter houses?

A Yes, sir.

Q And in that event did you sell that poultry in your various branch slaughter houses to the butchers? A Yes, sir.

Q Did you receive poultry in any other manner besides on a commission basis? A Yes, sir.

Q Did you buy poultry outright? A Yes, sir.

Q And where did your firm buy that? A All over the country as far as Texas.

Q And was that shipped in the same way -- in car load lots, to New York? A Yes, sir.

Q And what distribution did you make of that poultry that you bought outright? A The same basis.

Q That is, you sold some of it to other slaughter houses? A Most of it to myself.

Q Most of it to your own slaughter houses? A Yes, sir.

Q As I understand, when you speak of yourself you mean your firm, do you not? A Yes, sir, my firm.

Q Did you know the firm of Simon & Cohen? A Yes, sir.

Q Where was that firm located? A They were located at East 110th Street, around the corner from our 109th Street branch.  
In

Q /What line of business was that firm? A They also had a slaughter house that sold to butchers.

Q And who were the members of the firm? A William Simon and Louis Cohen.

Q Was either of these men related to you in any way? A Mr. Cohen is supposed to be a second cousin of my late Daddy.

Q You say that that firm of Simon & Cohen was composed of William Simon and Louis Cohen and they had a slaughter house in East 110th Street? A Yes, sir.

Q And also they sold to the butchers? A Yes, sir.

Q Then they were in the general business of slaughter house,

were they not? A Yes, sir.

Q Describe where your Harlem branch was which you purchased late in the year 1913? A It was at 417 East 109th Street.

Q How many blocks away from the slaughter house of Simon & Cohen? A That is within 400 feet -- about 400 feet. It is about a block and a half.

Q At the time of his death your father, I believe, was the senior member of the firm? A Yes, sir.

Q And was he actively engaged in the business? A Yes, sir.

Q Did you know a firm of Cardinale & Jacobs? A Yes, sir.

Q Do you know where they were located? A Yes, sir.

Q And where was that? A 108th Street, around the corner.

Q East of 108th Street? A Yes, sir.

Q About how many blocks was that away from your Harlem branch which you have just described? A A block and a half.

Q And how far was it away from the slaughter house of Simon & Cohen? A That was about three blocks.

Q Do you know whether William Simon had any other business? A He had a slaughter house at 179 Lewis Street.

Q That is on the east side of Manhattan, in the down town section? A Yes, sir, that is the east side.

Q And was that conducted under his own name individually? A Yes, sir.

Q On the night of November 24, 1914, were you in West Washington Market? A Yes, sir.

Q And where were you that evening in the neighborhood of



6 o'clock? A You mean when it happened? When it happened I was walking from the auction company's stand in Loew Avenue, where I had some poultry bought; as I turned around that corner into 13th Avenue I heard two shots and a lot of smoke.

Q After hearing the shots, where did you go? A Somebody tried to stop me off, -- Masec, I believe, stopped me off and said "Better keep away from the shooting, Harry".

Q Don't say what was said. Did you go down there? A Yes, sir.

Q And when you got there did you see your father? A Yes, sir.

Q Where was he? A He was backed up by two men against the wall, and he was groaning; he was unconscious. I tried to pick his eyelids up to recognize me, but he could not.

Q How long did you stay there? A Until they called an ambulance.

Q Was there a crowd around there or not? A Yes, sir, there was.

MR. O'MALLEY: That is all. I will recall this witness on other matters, your Honor.

MR. MOSS: Then I will reserve my cross-examination.

THE COURT: All right.

ANTONIO CARDINALE, a witness called in behalf of the People, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q What is your full name? A Antonio Cardinale.

Q And at the present time you are in custody, are you not?

3244  
CACT

A Yes, sir.

Q How old are you? A 29.

Q And where were you born? A Monte Maggiore, Italy.

Q In the province of Palermo? A Yes, sir.

Q When did you come to this country? A 17 years ago.

Q And did you come alone or with your people? A With all my people.

Q Do you recall where you first went to live when you came here? A Yes, sir.

Q What place? A 25 Monroe Street.

THE COURT: That is in New York City?

THE WITNESS: Yes, sir.

Q At that time you were about 12 years old? A 12 and a half years old.

Q After reaching here did you go to school? A Yes, sir.

Q About how long? A About a year.

Q And after finishing with school did you work any place?  
A Yes, sir.

Q Where did you go to work? A Monroe Street. That was my first place.

Q Now, without telling us the various places where you worked, tell us the general work you did? A In the pocket book line.

Q And will you name some of the firms for whom you worked?  
A Yes, sir.

Q Name them? A Ritter Brothers, John Mails in Hoboken; and I worked for the A & E Leather Good Company.

Q And there were some other concerns for whom you worked, were they not? A Yes, sir.

Q How long did you continue in that line of work? A Oh, about 12 years.

Q And when did you leave off working as a pocket book maker? A That is after I got married.

Q Were you married about the year 1912? A Yes, sir.

Q What part of that year did you stop working as a pocket book maker? A I could not recall exactly the time.

Q There was a time when you went into another business, was there not? A Yes, sir.

Q And what was the line of business into which you went? A In the chicken business.

Q About how long were you out of work as a pocket book maker before you went into the chicken business? A About 4 weeks.

Q And with whom did you go into business in the chicken business? A With my brother-in-law.

Q And what was his name? A Leone Campo.

Q And where did you and he enter business? A In 108th Street, -- 406 and 408 East 108th Street.

Q And what was the firm name? A Cardinale & Campo.

Q Did you take a lease of the premises there? A Yes, sir.

Q Were the premises ready for you to go in when you took the lease, or did you have to make alterations? A I had to fix up the place.

5226  
CAGF



Q About what time in the Spring of 1913 did you begin operations there? A I don't remember the date.

Q Do you recall the date you got your permit from the Department of Health? A Yes, sir, in May sometime.

Q Am I right in saying that the business in which you and Campo engaged was the slaughter house business? A Yes, sir.

Q That is, you bought live poultry and brought it to your market and then sold it to butchers? A Yes, sir, in retail.

Q Did you kill some on your premises and also sell it? A Yes, sir.

Q Where did you buy the poultry when you bought it alive? A In Washington Market.

Q Do you mean Washington Market or West Washington Market? A West Washington Market.

Q Which one of you -- Campo or yourself -- went to West Washington Market as a usual thing? A I did.

Q Can you tell me what, if any, employees the firm of Cardinale & Campo had? A Yes, sir.

Q Who worked for your firm? A A fellow by the name of Charles Arena; an old man by the name of Francisco; and Joe Sorop; a rabbi.

Q What did the rabbi do? A Killed the chickens.

Q How long did Leone Campo continue in business with you there? A Not very long.

Q During the time that you and Leone Campo were engaged in business there, did you meet this defendant here, Joseph Cohen?

A Yes, sir.

Q Where did you first meet him? A Down in Washington Market.

Q You have said that your brother-in-law, Leone Campo, did not stay in business with you very long? A Yes, sir.

Q Will you tell us just what business you and he did before he left you? A We sold chickens. The business was not so good you know because there was fighting in it you know and we did not have much capital.

MR. GILCHRIST: I object to the statement that there was fighting.

THE COURT: Strike out that statement -- that they were fighting.

Q When Leone Campo got out of the firm did anyone else come into it? A David Jacobs.

Q And by "David Jacobs" you mean the man sitting here (indicating)? A Yes, sir.

Q And what was the firm's name then? A Cardinale & Jacobs.

Q Do you recall about what month in 1913 that new firm was organized? A I don't recall that. There is everything in paper.

THE COURT: what year did you say?

MR. O'MALLEY: 1913.

Q Do you recall it was about July 28th? A In July some time.

MR. GILCHRIST: I object to this.

Q Do you recall it was about July 28th? A In July some time.

MR.GILCHRIST: I object to this.

THE COURT: He says in July some time, 1913.

Q Now, you were telling me a little while ago that you did meet Joseph Cohen? A Yes, sir.

Q Where did you meet him first? A Down in Washington Market.

Q About how long was that after you entered business with Campo? A May be two months or three months after.

Q Did you at any time have any talk with Joseph Cohen about your business up there? A Yes, sir.

Q About when was that with respect to the time that David Jacobs came into business with you? A I do not recall the date. But there is papers you know and that is all written down in black and white.

BY THE COURT:

Q Was it before or after you went into partnership with Jacobs, that Cohen talked to you? A Oh, before.

BY MR. O'MALLEY:

Q Before? A Yes, sir.

Q Whereabouts did you have that talk with Joe Cohen?

A In front of Hawks & Werner's.

Q You mean in West Washington Market? A Yes, sir.

Q What street was that on, do you recall? A I don't recall.

Q (Handing) I show you a diagram which is marked People's Exhibit 2 in evidence, and I point out here "Loew avenue" and "Lawton avenue". A There is Charlie Hawk's place



there (indicating).

Q It is designated there? A Yes, sir.

Q You say you had a talk with Cohen in Loew avenue there near Hawk's place? A Yes, sir.

Q Tell us what talk you had with him there at that time in regard to the business? A There was a strike amongst the poultry dealers-- the commission merchants and the poultry dealers -- for about a week.

Q By that strike, you mean a strike on the part of the slaughter house men? A Yes, sir.

Q And was that some times called a boycott? A Yes, sir.

Q Now what was said by Joseph Cohen. Was that the first time you ever talked with Joe Cohen? A That was the first time I met him.

Q Was there anything at that time said about your business in town, on that particular occasion? A No, sir.

Q What talk did you have with Joe Cohen at that time? A Because all the poultry merchants, they went down and bought the poultry down at Washington Market, and when I got there there was no more poultry, only ~~ixxxx~~ a few coops.

Q Did you talk with Joe Cohen? A Joe Cohen knew at that time that when I stuck it out in the strike, I was with the others--I did not kill any or buy any. So when I got there, he felt kind of sorry for me that I did not have no poultry and the others had.

Q What did he say to you? A He say, "You came down a

little too late. Well, anyhow, I will try to help you out."

So he took me over to Charlie Werner's place, and I got four or six coops of chickens-- he got it for me.

Q That was the first time you ever talked with Joseph Cohen?

A Yes, sir.

Q After that did you see him from time to time when you came to West Washington market? A Almost.

Q Do you recall that that strike was in the latter part of May 1913? A Yes, sir.

Q And did you have any talk with Joseph Cohen after that in regard to your business uptown? The business of Cardinale & Campo? A Yes, sir.

Q Tell us what that talk was? A I explained to him that my brother-in-law wanted to get out of the business, that he did not like to stay any longer. So at the same time my brother in law advertise his business in the Jewish paper-- his half for sale in the Jewish paper.

Q Did you have a talk with Joe Cohen about that? A I guess he knew about it before I told him about it; and he said "Tony I have a brother in law by the name of Davy Jacobs, that he would be a good fellow to be a partner, so I guess he will be with you."

Q Did he say anything else to you as to why he would be a good partner?

MR. MOSS: I object to that.

Q Did he say anything else? A Because, he said, "Tony, if

you have a Jewish partner, you could do better business."

Q Did he say anything else on that subject about your having a Jewish partner? A Yes, he said that I could get better poultry by having a Jewish partner.

Q And was there any talk about your business--

MR. MOSE: I object to these leading questions now.

Q What else was said about anything at that time that you remember? A I do not recall it just now.

Q During the time that Cardinale and Campo were in business, tell me whether or not you had been selling to Jewish trade in Harlem? A Yes, sir, I had Jewish customers the same way, but the only thing we were afraid to trust them because we did not know them. You know the Italian fellows and the Jewish fellows most of the time they cannot agree you know.

Q Did you have any further talk with Joseph Cohen about that matter? A No-- later on we had different talks.

Q And where did you have those talks? A Down in the market.

Q Now, I am speaking about talks about David Jacobs going into partnership with you--did you have any further talks with him about that? A I do not recall any more now.

Q Well, did you afterwards see Joe Cohen and talk with him on that subject at any time or any place? A Yes, sir, he came up with Jake Cohen.

Q Who came up? A Joe Cohen and his brother, to look over the place.



Q Do you see Jake Cohen here? A Yes, sir, there he is (indicating).

Q You mean the second man there (indicating)? A Yes, sir.

Q Where did they come when they came? A They came to my market in 108th Street.

THE COURT: That was while you were still in partnership with Campo?

THE WITNESS: Yes, sir.

Q Did you have a talk with them there? A Yes, sir.

Q Tell us that talk? A He came up there to look the place over, and he liked it, and so he asked me how much my brother-in-law wanted for his share and how much it cost us. So I gave him a figure for \$3,000. Well, so he said, "All right, Tony, that will be all right, the market is nice and clean and filled up all right, and I guess you will have my brother-in-law for a partner".

Q Now, after that did you see the defendant David Jacobs? A Yes, sir, I seen him there a few times but I never knew that it was him.

Q Was that after you saw Joe and Jake Cohen up there at your market? A Yes, sir.

Q Where did you see David Jacobs after that? A With the lawyer.

Q You say you saw him but you did not know who he was?

A Yes, sir.

Q Where was that? A In my market.

Q Where was he when you saw him? A Inside of the market.

Q You just spoke about a lawyer. Did you see Joe Cohen or his brother Jake Cohen up there after they were up there the first time, before you went to the lawyer? A Yes, sir.

Q Who came up with Joe Cohen at that time? A Jake Cohen and Joe.

Q Did Jacobs ever come up with Joe Cohen? A Yes, sir, the time that they took the stock.

Q How long was that before Jacobs came in with you? A A few days before.

Q Did you have a talk at that time with regard to stock? A Yes, sir; they wanted to know how many troughs was in there and scales and everything.

Q (Handing) Now I show you a photograph and ask you if that fairly represents the outside appearance of the market of Cardinale & Jacobs in May and July 1913? A Yes, sir.

MR. O'MALLEY: I would like to have it marked for identification.

MR. MOSS: You can put it in evidence if you wish.

MR. O'MALLEY: Very well. I will introduce it in evidence. I offer it in evidence.

(Marked Exhibit 15.)

Q After taking the stock where did you go? A To the lawyer.

Q Do you know what lawyer you went to? A To Bogert & Bogert.

Q And who went there? A Me, Campo my brother-in-law and Joe Cohen, Jacobs and a cousin of mine by the name of Frank Millitelo.

Q And what took place when you got to the lawyer? A They

signed an agreement.

Q That was a bill of sale, was it not? A Yes, sir.

Q Your brother-in-law, Leone Campo, signed a bill of sale assigning his interest in the partnership to David Jacobs?

A Yes, sir.

Q How much money was paid for that, do you remember?

A About \$1500.

Q And ~~where~~ were you there when the money was paid? A Yes, sir.

Q How was the money paid? A I think some in cash and notes.

Q Are you sure whether it was a note or check? A May be that was a check too with the note.

Q Who passed the check or the note? A Joe Cohen.

MR. GILCHRIST: If he knows.

Q You were there? A Yes, sir.

Q How much cash was paid? A I do not know whether it was \$600. or \$500., I do not recall that.

Q How was the balance paid? A By notes.

Q And to whom were those notes given? A To my brother-in-law Campo.

Q And do you know who signed the notes? A If I am not mistaken it was Joe Cohen.

Q Do you know whether David Jacobs was there at the time? A Yes, sir.

Q Do you know whether or not he put his name on it? A I don't recall.



Q You don't recall or you don't know? A I ain't sure if he did put it there or not.

Q Q Do you recall that that bill of sale was made about July 28, 1913? A Yes, sir.

Q And after that "Cardinale & Jacobs" was the name of the firm? A Yes, sir.

Q. Now, to go back, before the firm of Cardinale & Jacobs was formed tell me whether or not you ever had any talk with any of these defendants with regard to Barnett Baff? A Yes, sir.

Q And with which defendant? A Joe Cohen.

Q And where did you have that talk? A Down in the market.

Q And about where? A Down at Charley Hawkes, and in the telephone booth of Feinstein's.

Q There is a telephone booth in Charley Hawkes' stand?  
A Yes, sir.

Q You mentioned the name of Feinstein. Do you mean Louis Feinstein? A Yes, sir.

Q I point out here the stand of G. Z. Hawkes & Company at the south-westerly corner of Loew and Lawton Avenues, and show you here a plan of the office and also a little booth there called "phone". A Yes, sir, that is the telephone booth (indicating).

Q That is the telephone booth to which you refer? A Yes, sir.

Q Do you know who Louis Feinstein is? A Yes, sir.

Q Who is he? A He used to do the trucking business.

Q And by the trucking you mean the trucking of the poultry

CASE 324

yard to the West Washington Market? A Yes, sir.

Q Do you recall the name of that company? A No.

Q The New York Live Poultry Trucking Company, was the name, was it not? A Yes, sir.

Q Do you recall what talk you had with Joe Cohen in regard to Baff?

MR. KOPP: Whatever conversation he had with Joe Cohen at that time is not binding on the defendant Graff; and I ask your Honor if you receive it now that it be received only subject to the conspiracy being established later on.

THE COURT: I will receive it now as to Cohen, and as to the other defendants if the conspiracy is established.

Q (Question repeated)? A Yes, sir.

Q What did he say? A He said that Baff was the biggest one in the business, that he used to play very dirty tricks in the business and people could not make a piece of bread and butter.

Q What else, if anything, did he say? A We ought to do something to him to get him scared, to see if he will come to terms, to give us a chance to get a piece of bread and butter.

Q Anything else. Tell us everything that was said there at that time? A He did not say it right away; after a while you know he said we ought to get him scared, to place a bomb in the house where he lived.

Q Go ahead and tell everything he said if you remember it?

BY THE COURT:

Was that all on our business? A Yes, sir - not one.

time, maybe in a week.

Q Oh, covering a period of a week? A Yes, sir.

BY MR. O'MALLEY:

Q Now confine yourself to what he said about the bomb and to the time and place that he spoke to you about the bomb.

Was that in Hawkes' stand near the telephone booth? A Yes, sir.

Q Tell us everything he said to you on that occasion when he spoke about the bomb? A First, he told me if I knew any boys in Harlem that they will do a thing like that. I said "I don't know, Joe". He said "I know that there are good boys in Harlem".

THE COURT: He said that?

THE WITNESS: Yes, sir.

Q Proceed? A He told me to speak to them if I know them. I said "All right, I will try". At the same time, while I was going up on the wagon I told the driver --

THE COURT: He cannot state that.

Q Did you have a driver at that time? A Yes, sir.

Q What is his name? A Charley Arena.

Q And who else? A Joe Sarvo.

Q Was Charley Arena your regular driver? A Yes, sir.

Q And what was Joe Sarvo? A He used to hang around the place.

Q And do I understand you to say that you did talk with your driver -- you mean Joe Sarvo or Arena? A Joe Sarvo.

Q Did you speak with him that day or the next day? A The



same day, on the wagon.

Q After talking with him, what, if anything occurred?

A That he said that he would take the job.

THE COURT: Who said that?

THE WITNESS: My driver.

THE COURT: Strike that out.

Q After talking with Joe Sorvodic did you talk with any other person. Yes or no? A No, sir.

Q Did you afterwards talk with Joe Cohen? A Yes, sir.

Q Where? A Down in the market.

Q And who was there at the time you talked with Joe Cohen again? A All alone.

Q What talk did you have with him then? A I told him that I saw my driver, that he was going to take the job.

THE COURT: That the driver was going to take what job?

THE WITNESS: To place the bomb in the house.

Q And what did Joe Cohen say? A He said "All right, Tony, I do not want to know anybody, be careful, I only want to know you".

MR. MOSS: This was all before Jacobs came in as a partner.

Q These talks all took place before Jacobs came in as a partner? A Yes, sir.

Q Now, after having had this talk with Joseph Cohen, did you again see your driver Joe Sorvo? A Yes, sir.

Q And did you talk with him? A Yes, sir.

Q Was there anybody else present when you talked with him

that you can recall? A Davy Jacobs knew about it. He was not present.

Q I understood you to say a moment ago that Davy Jacobs was not in partnership with you at this time? A He knew it afterwards.

MR. MOSS: Then I move to strike out what he knew.

THE COURT: Yes.

Q I am limiting those two talks that you had with Joseph Cohen before David Jacobs knew anything about it, do you understand. At any time that you talked with Joe Cohen and spoke to him and told him that your driver would take the job, did you again see him in West Washington Market?

A Yes, sir.

Q And who was with you then? A Joe Sarrco.

Q Did you have any talk with Joe Cohen at that time?

A Yes, sir.

Q What talk did you have with Joe Cohen? A I told him he would take the job, and he said there was \$200. for it.

BY THE COURT:

Q Who was to take the job? A Joe Sarrco, my driver.

Q And who wanted the \$200.? A Joe Cohen told me that there was \$200. for the job.

Q Joe Cohen told you? A Yes, sir.

Q And was Sarrco present? A No, he was not.

Q Did you tell Sarrco? A Yes, sir.

BY MR. O'MALLEY:

Q Was Joe Sarrco ever present when you talked with Joe Cohen

about the price for the job? A No, sir.

Q Did you ever have Joe Sarvo down in West Washington market? A Yes, sir.

Q Before the bomb was set? A Yes, sir.

Q At that time did you hear any talk between Joe Cohen and Joe Sarvo? A No, sir.

Q After this talk occurred in which you say Joe Cohen told you that there would be \$200. in it, did you see Sarvo?

A Yes, sir.

Q And did you see anybody else besides Sarvo? A No, sir.

Q Do you know a man named Burke? A Frank Burke, yes, sir.

Q Do you know a man named Tony Nino? A Yes, sir.

Q Did you see either one of these at any place after you talked with Joe Sarvo about the job? A Yes, sir.

Q Where? A Around the market.

Q Who were they with? A Tony Nino was with Joe Sarvo and Frank Burke.

Q Did you have any talk with the three of them at any time? A No, sir.

Q What was the next thing that occurred?

THE COURT: In respect to what?

Q Well, in respect to this bomb? A I see Joe Cohen and I told him that my driver told me that he did not have no money and he was going to go down there with an automobile. So he said -- Joe Sarvo told me that at least he needs --

MR. MOSS: I move to strike that out.

THE COURT: Yes.



about the price for the job? A No, sir.

Q Did you ever have Joe Sarvo down in West Washington market? A Yes, sir.

Q Before the bomb was set? A Yes, sir.

Q At that time did you hear any talk between Joe Cohen and Joe Sarvo? A No, sir.

Q After this talk occurred in which you say Joe Cohen told you that there would be \$200. in it, did you see Sarvo?

A Yes, sir.

Q And did you see anybody else besides Sarvo? A No, sir.

Q Do you know a man named Burke? A Frank Burke, yes, sir.

Q Do you know a man named Tony Nino? A Yes, sir.

Q Did you see either one of these at any place after you talked with Joe Sarvo about the job? A Yes, sir.

Q Where? A Around the market.

Q Who were they with? A Tony Nino was with Joe Sarvo and Frank Burke.

Q Did you have any talk with the three of them at any time? A No, sir.

Q What was the next thing that occurred?

THE COURT: In respect to what?

Q Well, in respect to this bomb? A I see Joe Cohen and I told him that my driver told me that he did not have no money and he was going to go down there with an automobile. So he said -- Joe Sarvo told me that at least he needs --

MR. MOSS: I move to strike that out.

THE COURT: Yes.

into the business? A Yes, sir.

Q Now, after the bomb was brought by you from Ippolito Greco and placed in your market, what was done with the bomb?

A I gave Joe Seryo the key, the time that he needed it to take it out and go and place it, because he hired the automobile himself and I did not know with whom he was going to do that.

Q What time did you give Joe Seryo the Key on a certain day? A In the evening.

Q Is that the same day that you understood he hired the automobile? A Yes, sir -- maybe he spoke a day or two before; but the same day he took it out of there when I gave him the key.

Q Can you describe the bomb as you recollect it? A It was about that long (indicating) and that wide (indicating).

Q How was it wrapped up? A In a newspaper.

BY THE COURT:

Q Was there a fuse attached to it? A Yes, sir, wrapped around it.

Q How long? A Maybe a yard and a half or two yards.

BY MR. O'MALLEY:

Q You say that fuse was wrapped around it? A Yes, sir.

Q After giving Joe Seryo the key when did you next see him?

A The next day.

Q Where did you see him the next day? A In my market.

Q And who was with him? A All alone.

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

Q What talk did you have with him? A He told me that he went there to place the bomb.

MR. MOSS: I move to strike it out.

THE COURT: I think I will take it with the understanding that it is to be stricken out unless he is shown to have been one of the conspirators.

MR. MOSS: I except to its being allowed in at all.

When  
Q Did he say he had been there? A The night before.

Q Any other talk with him? A Yes, sir. He told me that he put it there.

THE COURT: Did he say where he put it -- at whose house?

THE WITNESS: On Baff's house.

Q And did he say where -- on what part of the house?  
A The outside.

Q After having had that talk with Joe Sarvo did you and he go any place? A Yes, sir, down to the market.

Q And who went with you? A Joe Sarvo

Q Anybody else? A And Frank Burke and Tony Nino.

THE COURT: Which market?

THE WITNESS: West Washington Market.

Q And when you got down there whom did you see? A I saw Joe Cohen.

Q Where did you find him, do you recall? A In the market there.

Q And did you see him first or did Joe Sarvo see him first?

A I see him first.

Q You saw him first? A Yes, sir.

Q And after seeing him where did you go? A I told him what Joe Saro told me, that he already put the bomb there.

Q And what did Joe Cohen say? A He said "Why, I did not see anything in the paper". N

Q Now, after having that talk with Joe Cohen, did you and he go any place? A Yes, sir.

Q And where did you go? A Down the market by Louis Feinstein's telephone booth.

Q Did you see Tony Nino and Joe Saro down there in the market and Frank Burke? A That was the next day when we went down for the money.

Q As I understood, you went down first on Saturday morning after the bomb? A Yes, sir.

Q And Joe Saro and Burke and Nino went with you? A Yes, sir.

Q Did Joe Cohen see Joe Saro and Nino that day? A Yes, sir, in the saloon.

Q What talk, if any, did you hear between them? A Frank Burke was making a kick that he wanted the money. Why? Joe Cohen said, "Why, there is nothing in the paper, I did not read anything about it". He says "We put it there, we will get the paper".

BY MR. KOPP:

Q What saloon was this? A If I go there I can place the saloon.



BY THE COURT:

Q "Is it the saloon near the market? A No, it is a few blocks away.

BY MR. O'MALLEY:

Q What else was said. I think you said there was something said about getting a newspaper? A Yes, sir, he said "We will show it to you in the paper". It was in the World. So they bought the World and showed it to Joe Cohen.

Q This was Saturday? A Yes, sir, but the argument was on Monday.

THE COURT: This occurred on Monday?

THE WITNESS: Yes, sir.

Q This talk you are telling about now, took place on Saturday? A The first ~~time~~ time I went down with Joe Sarro was on Saturday; but then for the money, it was on Monday.

Q Who went down Monday? A Joe Sarro, Tony Nino, Frank Burke and me.

Q And was the newspaper brought along at that time? A Yes.

Q And it was The World? A Yes, sir.

THE COURT: Did you see the paper?

THE WITNESS: Yes, sir.

Q And did you have this newspaper article there at the time you talked with Joe Cohen? A Yes, sir, Joe Sarro had it.

Q Did you see what was done with it? A They showed it to him.

Q To whom? A Joe Cohen.

Q Did he look at it? A Yes, sir.

Q After he looked at it, tell us what conversation took place? A He said, "Jesus, you don't want me to pay money for nothing; that is a bum job, the bomb did not go off."

THE COURT: That is what Cohen said?

THE WITNESS: Yes, sir.

Q What else was said? A He said, "I cannot give any money for nothing, I have got no money, I have to see somebody else." So Frank Burke and Joe Sarro they put up a kick.

Q What did they say to him? A They said, "We want the money, we don't know anything about that, we took a chance and put the bomb there, we want our money." He says, "If that

243 99

didn't go off we will put another one there." And at the same time they wanted to get their money. So Joe Cohen, after a big argument, gave them \$100.

THE COURT:

Q Who? A Frank Burke, Joe Saro and Nino.

Q Who did he hand it to? A Frank Burke. He was the fellow that done all the talking.

BY MR. O'MALLEY:

Q And what was done with this \$100? A They gave me \$3

Q Who did? A Joe Saro.

BY THE COURT:

Q That was the \$35 that you had advanced? A Yes, sir; and put it back in the drawer.

BY MR. MOSS:

Q Saro gave you the \$25? A Yes, sir.

Q I understood you to say that the money was given by Joe Cohen to Frank Burke? A I never had any business with Frank Burke. That surprised me myself --

BY THE COURT:

Q You got \$35. out of the \$100 from Saro? A Yes, sir.

I got it because I gave it to him.

BY MR. O'MALLEY:

Q And this \$35 that was given to you was to cover the \$25 advance for the automobile and the \$10 for the bomb? A Yes.

Q Do you know how the other \$65 was divided? A No, sir.

Q I understand you to say that that talk was the Monday after

the bomb was set. Is that right? A Yes, sir.

Q Did you talk with any other person besides Joe Cohen afterwards about that bomb? A Yes, sir.

Q With whom did you talk? A With Willie Simons and Louis Cohen.

Q William Simons is the member of the firm of Simons & Cohen up in East 110th street? A Yes, sir.

Q And Louis Cohen is a member of the same firm? A Yes, sir.

Q Where did you talk to William Simons about it? A Down in the market.

Q What did you say to him? A I told him about the bomb that was placed and the fellows that had to get the money and they got it.

MR. KOPP: This conversation was had with William Simon and not in the presence of any of these defendants. I move to strike it out.

THE COURT: I will strike out what the witness said Simons and Louis Cohen said to him.

Q Did you ever have any talk with any of these defendants in regard to it, besides Joe Cohen? A Yes, sir.

Q Which defendant? A With Abe Graff.

Q Where? A Down in the market.

BY THE COURT:

Q What did you say to Graff or what did he say to you about it? A I told him that they placed a bomb in ~~Mark~~ Baff's home, and it did not go off right, and they told me it



was a bum job, that they could have done a better job. I said I did not put it there.

BY MR. O'MALLEY:

Q After talking to him did you talk to any one else. Did you talk with Joe Cohen after you talked with Abe Graff about it? A I used to talk with Joe Cohen almost every day.

BY THE COURT:

Q Did you speak to Jacob Cohen about it? A The time he came in business, I explained to him everything.

Q That was some time afterwards? A Yes, sir.

BY MR. O'MALLEY:

Q (Handing) I show you a copy of the New York World, dated June 13, 1913. Do you see that article there (indicating)?

A Yes, sir.

Q Is that the article which you say Joe Saro-- A Joe Saro brought down to Joe Cohen.

Q And which was shown to Joe Cohen? A Yes, sir.

THE COURT: Was that on the day he paid the \$100.?

THE WITNESS: Yes, sir.

MR. O'MALLEY: I offer it in evidence.

MR. MOSE: Does the witness say that he read the article and that is the same article?

THE WITNESS: No, sir.

BY THE COURT:

Q Do you know whether it is the same article? A I only read the heading of it.

Q Is the heading of this the same as the heading you read.  
Look at it? A Yes, sir.

Q That is the same? A Yes, sir.

BY MR. MOSS:

Q What is the heading. Don't look at the paper, but what is the heading? A The explanation.

BY THE COURT:

it  
Q What ~~he~~ said was what you saw in the other paper? A A bomb placed in the front of the building.

BY MR. MOSS:

Q Is that what the head line says? A Yes, sir. I cannot read too much, but I understand.

Q You did not read that, did you? A Not the whole thing.

Q You did not read the article? A The headline.

MR. MOSS: I object to the article.

THE COURT: It may be marked for identification.

(Marked Exhibit 16 for Id.)

BY MR. O'MALLEY:

Q Now I ask you if you recall anything else that you said to Joseph Cohen after Abe Graff spoke to you about the bomb. Do you recall it?

MR. MOSS: He does not say that Abe Graff spoke to him about the bomb. He says he spoke to Abe Graff.

THE COURT: Yes, but that Graff said it was a bum job, and he could have done better.

Q Do you recall having spoken to Joe Cohen after you had

this talk with Abe Graff? A Yes, sir.

Q Now, will you tell us whether or not you first spoke to Abe Graff or Abe Graff spoke to you about the bomb? A I spoke to him.

Q You spoke to him? A Yes, sir.

Q Did you have any other talk with Joe Cohen in regard to Baff after this bomb matter? A He told me that Baff was the same way, that he did not get frightened.

Q Tell me everything that he said to you at that time?

MR. MOSS: Where and when?

Q And where was the talk? A Always down in the market.

Q About how long was that? A He knows it better than me. They all know it better than me.

MR. MOSS: Just wait a while now.

THE WITNESS: He says that Baff did not get scared with the bomb.

Q How long was it after the bomb matter? A Not long, may be a week.

Q And you said it was in the market? A Yes, sir.

Q Tell us what he said to you? A He said I ought to send him a black hand letter, not for money, to get him scared, but to give people a chance to get a piece of bread and butter.

Q And what did you say to him? A "All right."

Q And did he say anything else to you about Baff behaving so that people could earn bread and butter? A Yes, sir.

Q What did he say? A He said that Baff was the cause of

ruining all the business, he did not give nobody <sup>243</sup> a chance to eat a piece of bread and butter, that all this thing was done to get him scared, there was no idea to get him killed, may be he will come to terms.

Q Do you recall anything else that was said by Joe Cohen at that talk about Baff and his methods? A I do not recall it just now.

Q Do you recall anything Joe Cohen said about how Baff ruined the business? A Yes, sir.

Q Tell us about that? A That he used to feed the chickens with gravel and cement.

Q Anything else? A And the other dealers they had to do the same thing to do business.

Q Did he say anything else about Baff's methods? A He said many words, but I do not recall it just now.

Q Did Joe Cohen at that time say anything about prices, about the prices--cutting the prices? A Yes, sir.

Q Tell us about that? A He used to sell, for instance, at a few cents a pound down at the market; and he used to advertise in his own market for 17 and 18-1/2 cents, and we had to pay 18 for it, so we had to lose--every one in the business almost.

THE COURT: He said that?

THE WITNESS: Yes, sir.

Q After you had this talk with him, what if anything was done with respect to this letter? A I told Joe Sore my



Q You had a talk with him, did you? A Yes, sir.

Q And what was done? A Joe Sero wrote the letter in my office, and then he gave it to Frank Burke to copy, and Frank Burke copied it and gave it back to Joe Sero. Joe Sero showed it to me, and I went and showed it to Louis Cohen in the 110th street market.

MR. O'MALLEY: I suppose that last will come under your previous ruling, your Honor?

THE COURT: I think the fact that he exhibited it is all right. I will let it stand.

MR. MOSS: I move to strike out all the talk which he said he had with Joe Sero, and that Sero wrote the letter and that Burke copied it, and all that. I move to strike it out as incompetent.

THE COURT: Motion denied.

MR. MOSS: Exception.

Q Did you have any talk with any of these defendants about letters? A Yes, sir. Louis Cohen told me--

MR. MOSS: Objected to.

Q I mean the defendant Joe or Jake Cohen, Jacobs and Graff?

A Yes, sir, Davy Jacobs knew it.

Q What talk did you have with him? A To tell him that Joe Cohen wanted to have the letters written to Raff to get him scared.

THE COURT: The witness says that he told to David Jacobs that. What did Jacobs say to that?

THE WITNESS: He said "That will be a good thing".

MR. GILCHRIST: I move to strike it out as immaterial, irrelevant and not shown that Jacobs had anything to do with the writing of the letter.

THE COURT: Motion denied.

MR. GILCHRIST: Exception.

Q Did you have this talk with David Jacobs before or after he came in the partnership? A After he came in partnership.

THE COURT: What was done with the letter. Did you send the letter?

THE WITNESS: No, sir, Frank Burke.

MR. GILCHRIST: May I have the time when this alleged conversation was had with Jacobs, fixed more specifically?

THE COURT: Yes.

BY MR. O'MALLEY:

Q About when was that talk with David Jacobs? A I cannot recall that.

BY THE COURT:

Q Was it after you and he were in business? A Yes, after he was in partnership with me.

Q And how long was it after the letter was written? A About two weeks.

MR. GILCHRIST: I renew the motion to strike out.

THE COURT: Motion denied.

MR. GILCHRIST: Exception.

BY MR. O'MALLEY:

Q Do you recall having had any talk with either of these

defendants following this letter incident, in regard to Barnett Raff? A Can I mention Willie Simone and Louis Cohen?

Q I think your talks with them are ruled out at the present time. Now I am talking about Jake and Joe Cohen and Jacobs and Graff. After the letter you have been telling us about, did you have any talk with Joe Cohen in regard to Raff? A Yes, sir.

Q What was the next time? A The next talk was to set Newmark's place on fire.

THE COURT: When was that?

Q About how long was that, should you say, after the letter?

MR. MOSS: I object to any testimony regarding the setting of Newmark's place on fire or conversations relating to that.

THE COURT: What was this about Newmark. Where was that?

MR. O'MALLEY: It was a fire that was set by Ippolito Greco at the request of Joe Cohen.

THE COURT: I think I will permit the witness to testify what the defendant Joe Cohen said to him on that subject.

MR. O'MALLEY: That is what I want, your Honor.

THE COURT: Now fix the time and place.

MR. MOSS: I take an exception to that.

Q Where did you have this talk with him about the fire?

A Down in the market.

Q West Washington Market? A Yes, sir.

Q And about how long was it before the fire? A About a week before.

Q Do you recall the fire was October 2nd, 1913? A Yes, sir.

Q It was about a week before that? A Yes, sir.

Q Tell me what talk you had with Joe Cohen in regard to that? A He told me that Newmark was one of the men that used to help out Baff in selling his poultry, and he was fighting too uptown, selling below the price like the other market; he said, "Tony, wouldn't it be a good thing to put that fellow out of business."

Q And what did you say? A Of course he knew all the business, the way it used to go on, and he said to put his place on fire. and he told me to speak to some of the boys; and I spoke to Ippolito Greco.

Q Before you spoke to Ippolito Greco, did you speak to any other person? A Yes, sir.

Q To whom? A Abe Graff, Willie Simon, Louis Cohen and Joe Cohen.

Q I mean did you speak to any of them before you went to Ippolito Greco about it--did you have a talk with Joe Sarro about it? A Yes, sir.

Q Where was that--uptown? A Yes, sir, in my market.

MR. MOSS: I renew my objection and move to strike out the testimony already given by this witness shows that there is no connection in this alleged event with the issues in this action.

THE COURT: Motion denied.

MR. MOSS: Exception.

Q What is the next talk, if any, you had with Joe Cohen in



regard to this fine? A He said there would be \$200 or \$300-- I don't remember--for the job. And I talked to him Ippolito Greco, and he took it.

Q Now before Ippolito Greco took it, did you have any talk with Joe or Jake Cohen? A I do not recall just now.

Q Do you remember ever seeing Joe Cohen uptown in your market at this time? A Yes, sir.

Q Tell us who was there with him? A Jake Cohen and Joe Cohen, Davy Jacobs, me and Joe Sorro.

Q What talk, if any, took place at the time you met there at the market? A That they wanted to have this place on fire.

BY THE COURT:

Q Who said it? A Joe Cohen.

Q What did he say? A Davy Jacobs said to Joe Sarro if he wanted to do the job. And Joe Sarro said, "I was a damn fool once, I am not going to be a damn fool again." He meant according to the bomb, that he did not get the money.

THE COURT: Strike out about that he meant according to the bomb.

Q What else was said at that meeting, if anything? A Ippolito Greco came over. Joe Sorro went in and saw him.

Q Yes, and after Ippolito Greco came what took place?

A They made the price.

Q Tell us what was said? A He said that he wanted Newmark's place on fire.

Q Who said that? A Joe Cohen.

Q. to whom did he say it? A To Ippolito Greco.

THE COURT: Who else was there at that time? A Me, Davy Jacobs, Joe and Jake Cohen and Joe Sorro.

Q Tell us everything that was said at that meeting? A They wanted to have the fire done. Ippolito Greco said "All right, we want to have some money ahead--some money before".

Q What was said about that? A "Don't be afraid, that the money will be sure in the drawer. "

Q Who said that? A Joe Cohen.

Q Then what took place? A So he wanted to have cash money.

THE COURT: Who wanted it?

THE WITNESS: Ippolito Greco.

Q Proceed. A And Joe Cohen told Davy Jacobs to give him \$50 or \$100 out of the drawer.

Q And what did Davy Jacobs do? A He took it out of the drawer and gave it to him.

BY THE COURT:

Q Where was that? A In my market.

Q Uptown? A Yes, sir.

Q That was after Davy Jacobs became your partner? A Yes, sir.

BY MR. O'MALLEY:

Q What took place then after David Jacobs gave the money to Ippolito Greco? A Ippolito Greco bought some gasoline--I don't know what it was, in two big cans, and he brought it over to my market.

Q Did you go any place from your market? A Yes, sir, to

a saloon.

Q What saloon? A Ippolito Greco's saloon.

Q Do you know now where Ippolito Greco is? A He is dead.

Q Do you know when he died? A No, sir. I was on the other side when he died.

MR. O'MALLEY: Mr Moss, it was October 1915. Will that be conceded?

MR. MOSS: All right.

(The Court then duly admonished the jury, and an adjournment was taken to tomorrow, Wednesday, June 27th, 1917, at 10 o'clock a.m.)

WEDNESDAY, JUNE 27, 1917.

The Court met pursuant to adjournment.

The People vs. JOSEPH COHEN and others, resumed.

ANTONIO CARDINALE resumed the stand.

DIRECT EXAMINATION CONTINUED BY MR. O'MALLEY:

Q Last night you were telling us about some gasoline that was secured. Do you remember that? A Yes, sir.

Q Where was that gasoline bought? A Ippolito Greco brought that. I don't know where he bought it.

Q Where did he bring it? A To my market.

Q How soon was that after you talked with Joe Cohen and Jake Cohen and David Jacobs and Ippolito Greco? A The next day.

Q After the gasoline was brought to your place do you know where it went? A Yes, sir, in 109th Street.

Q Did you see it taken away from your place? A Yes, sir.

MR. MOSS: I move to strike out that it was taken to 109th Street.

THE COURT: Did you see it taken there?

THE WITNESS: Yes, sir.

THE COURT: He says he saw it taken there. Motion denied.

Q Do you know who took it? A Ippolito Greco.

Q Was that the same evening that the gasoline was brought to your place? A Yes, sir.

Q Now, that night were you on the streets, Tony, in Harlem?



A Yes, sir.

Q And did anything attract your attention? A Yes, sir.

Q Did you go into East 109th Street that night? A Yes, sir, right on the corner of First Avenue.

Q About what time did you go there? A About 10 o'clock. I stayed there a long time.

Q Did you go to premises 417 East 109th Street that night or early the next morning? A The same night I went there, after the fire.

THE COURT: After what?

THE WITNESS: After the fire.

Q Did you go any place. I will ask you, did you see the fire? A Yes, sir.

Q Whose premises were those? A It was Neumark's place.

Q How did you notice about the fire? A I noticed that there was a lot of chickens loose like, and a fellow by the name of Lesley, he went in the stable to save the horses and he had the horses outside of the street.

BY THE COURT:

Q Had there been a fire already? A Yes, sir.

Q What had been burned? X Everything almost.

Q The building? A Yes, sir.

BY MR. O'MALLEY:

Q About what time of the evening or early morning did you go there. Did you see the fire? A I did not see the fire but I went there after the fire was almost done.

THE COURT: And what morning was that?

MR. MOSS: I object to any further inquiry as to the fire and move to strike out the testimony on the same grounds as I objected originally to bringing it in.

THE COURT: Motion denied.

MR. MOSS: Exception.

BY THE COURT:

Q What morning was this you went there after the fire?

A That was the same night.

Q But what date, what month? A I do not recall the date.

MR. O'MALLEY: I think we have the date fixed -- October 2, 1913, the early morning, was the date of the fire.

THE COURT: What year?

MR. O'MALLEY: 1913.

BY MR. O'MALLEY:

Q After you went to Newmark's premises and saw that it had been burned, did you see Ippolito Greco the next day? A I saw him the same night.

Q After or before the fire? A Before the fire.

Q Did you talk with him? A No, sir.

Q Did you see him the next day after the fire? A I seen him the same night, on the corner of 107th Street and First Avenue while I was talking to a policeman by the name of Johnny Cox and he had a big dog chained with him.

THE COURT: He had what, you say?

THE WITNESS: An Italian bull, chained with him.

Q At that time he was on the street? A Yes, sir.

Q Do you personally know who set the fire? A Yes, sir,  
I did not see him set the fire but --

Q Did you have a talk with Ippolito Greco the next day  
about the fire? A Yes, sir.

Q Where was that? A In his saloon, and he came in my  
market too.

Q What talk did you have with him?

MR. MOSS: I object to this as not connected with the  
action and as incompetent.

THE COURT: Objection overruled.

MR. MOSS: Exception.

Q Tell us what talk you had?

MR. MOSS: And also it was in the absence of the de-  
fendant.

THE COURT: Objection overruled.

MR. MOSS: Exception.

A He said "Are you satisfied with the fire, Tony?"

Q And what did you say? A I said "Because it turned out  
good I have to speak to Joe Cohen, the fellow that has to pay  
the money".

Q At that time did you talk with Ippolito Greco as to who  
had set the fire?

MR. MOSS: Same objection to this, your Honor.

THE COURT: Objection overruled.

MR. MOSS: Exception.

A After the fire?

Q Yes? A Yes, sir.

Q Who did he say, if anyone, had set the fire?

MR. MOSS: The same objection to this.

THE COURT: Objection overruled.

MR. MOSS: Exception.

THE COURT: What did he say about who set the fire?

THE WITNESS: He did not tell me anything.

Q After that did you talk with Joe Cohen in regard to it?

A Yes, sir.

Q And where did you see him? A Down the market.

Q Do you mean your market or West Washington Market?

A West Washington Market.

Q Tell us what talks you had with him? A No more than I got there he knew all about it because it was in the papers already --

THE COURT: Strike that out.

Q What was said? A I said "Joe, did you read about it?"

He said "Yes, it turned out good"; he said "You can give the money out of the drawer".

THE COURT: He said that to you?

THE WITNESS: Yes, sir.

THE COURT: Joe Cohen did?

THE WITNESS: Yes, sir.

Q And to whom did he say to give the money? A To Ippolito Greco.

Q Did he say anything else about money to any other persons?

A Yes, sir. He said "Give the money and charge \$100. to Willie



Simon in 110th Street because Willie Simon and Louis Cohen from 110th Street they were supposed to pay \$100."--

MR. MOSS: I object to that last part and move to strike it out.

BY THE COURT:

Q Did he say that? A Yes, sir.

Q Did he say they were supposed to pay \$100.? A Yes, sir.

THE COURT: Then the motion to strike out is denied.

MR. MOSS: Exception.  
there

Q After that was anything done in regard to the money for that fire so far as you know. Did you see Ippolito Greco in regard to the money? A Yes, sir, he came to the market and gave him the money.

Q Who gave him the money? A David Jacobs.

Q Do you know how much he gave Ippolito Greco? A I do not recall but I know that he gave him \$100. or \$200. -- I do not recall which -- because the price was paid for 200 or 300 dollars; I do not recall that.

Q I think you told us that on the night that Joe Cohen and David Jacobs and Ippolito Greco talked about it some money was given that night? A Yes, sir, from the drawer. David Jacobs gave it to Ippolito Greco.

MR. MOSS: I suppose it may be understood that my objection covers the entire line of this testimony?

THE COURT: All right.

Q Then do I understand you to say that after the fire more

money was given by Jacobs to Ippolito Greco? A Yes, sir.

Q But your recollection is not quite clear as to how much it was? A Yes, sir.

Q Now, after that did you see William Simon again? A Yes, sir, on Saturday night I used to see him in the market in 110th Street.

Q Did you see him down in West Washington Market? A Yes, sir.

Q And did you have any talk with him about this matter?

A Yes, sir.

Q What talk did you have with him?

MR. MOSS: Objected to as immaterial and irrelevant and incompetent.

THE COURT: Objection overruled.

MR. MOSS: Exception.

\* A I told him that the fire was set. And he said "Yes, Tony, I heard about it at the time, that it was a good job."

Q Was there anything else said by William Simon? A I told him that Joe Cohen already told me that he was going to pay half for the fire, out of his business.

Q That is, you told him that Joe Cohen told you that he, Simon, was to pay part of the money? A Yes, sir, \$100.

Q What did William Simon say? A He said "All right, when I come up town I will draw out a check".

THE COURT: Was that to help pay for the fire?

THE WITNESS: Yes, sir.

Q Did you talk with Louis Cohen about the matter? A Yes, sir.

Q And where did you talk with him?

MR. MOSS: The same objection to this, your Honor.

THE COURT: Objection overruled.

MR. MOSS: Exception.

A In his own market.

Q On east 110th Street? A Yes, sir.

Q How soon was that after the fire? A The next day.

Q What talk did you have with him -- Louis Cohen, the partner of William Simon? A The same thing. He said "Tony, that turned out very nice". I told him that already Joe Cohen had told me that \$100. they were supposed to pay. And he said "All right, Tony, you know William Simon comes up on Saturday night to sign the checks and he will sign one".

Q Now, after that did you receive anything from Simon and Louis Cohen? A Yes, sir, after about two months they paid that check.

Q And do you remember how much the check was for? A \$95. or \$96., because David Jacobs had gone to 110th Street and he got two or three Long Island Ducks for a customer and he did not pay it. So when they made out the check he kept this money back and gave the check for \$95. or \$96.

BY THE COURT:

Q And the price of the ducks made up the \$100.? A Yes, sir.

Q Who did he give that to? A To me, that Saturday night, and I brought it over to the market.

BY MR. O'MALLEY:

Q What did you do with it? A Deposited it in the bank.

Q Did you have any talk with any other of these defendants in regard to the fire? A With all of them. With Abe Graff.

Q Where did you see him? A Always down in the market; that is where he worked.

Q And he worked for Charlie Werner? A Yes, sir.

Q What talk did you have with Abe Graff about it? A He said "It is a good job". You know he passed dirty remarks like -- "Some of them deserves to get that; on account of them we cannot make a living".

Q About how long was that after the fire that you talked with Abe Graff about it? A Maybe a day or two, because nearly every day I used to go down I used to speak to him; and that is nearly over four years ago, and I went through a lot of trouble; my mind ain't so clear.

Q Now I think we have these dates fixed; the date that the bomb was set was July 11, 1913? A Yes, sir.

Q And the date of the Newark fire was October 2, 1913? A Yes, sir.

Q Now, before the fire had you had any talk with Joe Cohen in regard to Raff in any other respect? A Yes, sir.

Q Where did you have those talks? A Down in the market?

Q What were those talks? A On account of the Raff people they could not make a living in the business.

Q What did he say about Raff?

MR. MOSS: I object to this unless the time is fixed.

Q About when was this talk with respect to the fire -- about



how long before? A Oh, about two or three weeks before, or something like that.

Q And when you say you had this talk with him in West Washington Market where did you usually see Joe Cohen? A When we had some very private talk it was in Louis Feinstein's telephone booth.

MR. O'MALLEY: Where is the diagram. I will show it to the witness.

THE COURT: He pointed it out yesterday.

Q Now, in those talks that you say you had will you tell us what Joe Cohen said about Baff? A Joe Cohen said that Baff he was a very bad man in the business and there ought to be something done to make him do what was right in the business, to give people a chance to make a piece of bread and butter; so in the same time he used to come out that he had to get something to make him scared, and that is why all these things were done to Baff.

Q Now, after this fire did you have any other talk with Joe Cohen? A Yes, sir.

Q About Baff? A Yes, sir.

Q About how long was that after the fire, do you think?

A Always we had talk and always about Baff -- nearly every day I used to go down there we used to talk, nearly every day.

Q Now, I am coming to a particular talk that you had with regard to Baff when something was said about doing something else to him? A Yes, sir, but that was after a while about Baff, that he ought to get killed.

Q That was some time after the fire? A That he ought to get killed.

Q Who told you that? A Joe Cohen and Willie Simon; even Louis Cohen from 110th Street.

Q Where was the talk? A Down the market.

Q In the same place? A Yes, sir.

Q You just told us that the defendant Joseph Cohen said something about that Baff ought to be killed? A Yes, and Willie Simon.

Q Confine yourself to the talk you had with Joseph Cohen and fix it as nearly as you can, the length of time it occurred after the Neumark fire? A It may be a week or two after. I cannot recall the date.

Q Now, after that talk did you have any other talk with Joe Cohen in regard to it? A Yes, sir.

Q How long was that after the first talk? A Maybe two days after.

Q Two days after? A Yes, sir.

Q And did you have it in the same place? A Always down in the market. If it was not there, it was in the street.

THE COURT: How often did you go to the West Washington Market?

THE WITNESS: Nearly every day -- three or four times a week, five times a week.

Q Now then I want you to tell us everything that Joe Cohen said to you in this second talk he had with you about Baff

being killed? A He told me -- he said "Tony, I know there is some good boys in Harlem"; he said "Speak to them". He meant about getting Baff killed.

MR. MOSS: I move to strike out the last part of the answer.

THE COURT: Yes, strike it out.

Q Tell us everything he said to you at that conversation?

A He said "There is some good fellows up town that will take a job like that".

BY THE COURT:

Q What job? A To kill Baff.

Q He said that? A Yes, sir.

BY MR. O'MALLEY:

Q What did you say, if anything? A I told him "Joe, I don't know much of them, but the only thing I can speak to Ippolito Greco, the fellow that done the fire". He said "Go ahead and speak to him". And he told me that there would be \$500. for the job.

Q Did he tell you anything else about Baff at that time?

A That was a little after, when he already took the market of Neumark in 109th Street.

Q Now, you have told us about Joe Cohen saying that there would be \$500. in the job? A Yes, sir.

Q Now, at the time of that talk, did he say anything to you about Baff or his methods -- his business methods?

MR. MOSS: I object to this way of examining as to these

conversations. I think this witness should be required to state everything that was said at particular times, without it being chopped up and led along.

THE WITNESS: I can make everybody understand the whole story in five minutes.

THE COURT: Don't mind that.

Q (Question repeated)? A Yes, he said that he used to feed the chickens with gravel and cement, already they had inspectors going around the poultry cars and they find bags of gravel with Baff's cars, and he never got in trouble with the law, he had such a big pull he could get away with anything.

Q Now, have you told us all that you recall of that conversation, at the present time? A Maybe I do not recall the whole thing.

Q Do you recall anything being said about the place where Baff should be killed? A Down the market.

Q Tell us everything that Joe Cohen said about that? A He said "You can tell the boys that come down in the market that they can give it to him right here; there is nobody that likes Baff", he says; and he said that "they should not be afraid to come down in the market and give it to him right here, that everybody in the business hates him; no more than they see him ~~seeing~~ getting it why they won't open their mouths, they will go out and get drunk; you tell the boys to come down and they should not be afraid to do it".

Q Now then did you have any further talk with Joe Cohen at



that time? A I do not recall just now. I recall that he even told me to poison the horses in 109th Street -- poison the horses of Baff in 109th Street.

BY THE COURT:

Q Did Baff keep his horses up there? A He had a chicken market up there too.

Q Did he have horses there too? A Yes, sir.

BY MR. O'MALLEY:

Q What did Joe Cohen tel you about poisoning Baff's horses?

A He told me that he would pay either \$15. or \$25. -- I don't recall that -- for every horse that would ~~get~~ get poisoned.

Q Where were Baff's horses? A In 109th Street.

Q Did he have a branch there then? A Yes, sir.

Q At No. 417 East 109th Street? A Yes, sir.

Q Do you know whether or not at that time he had bought out Neumark's market after the fire? A I understood that --

MR. MOSS: Objected to.

Q Go back to the time of the fire -- do you remember when Neumark's branch was burned? A Yes, sir.

Q After that did Neumark continue in business there or did someone else go into business there? A Baff did.

Q How long after the fire was that? A They had to put up the market -- build it out of bricks.

Q At the time of this conversation about poisoning the horses, Baff was in that branch, was he? A Yes, sir.

Q And who was in charge of the place? A Neumark's son

Q Aaron Neumark's son? A Yes, sir.

Q Now, tell us all the other conversations you had about poisoning those horses, if any, or have you told it all to us?

A Yes, sir.

Q After Joe Cohen spoke to you about that, what did you do. Did you speak to anyone else? A To Willie Simon, Louis Cohen-- all of them I used to speak to. By "all of them" I mean Joe Cohen and Willie Simon and Louis Cohen and David Jacobs and Abe Graff even give me the bottle of medicine to poison them with -- a bottle that large (indicating).

Q What did he say when he gave it to you? A Joe Cohen told me -- he said -- I told him that Ippolito Greco did not have no medicine to do it with. So I told Joe Cohen. And Joe Cohen told me to go over to Abe Graff, that he would give it to me, that he has got it. And I went over and he give it to me. I said that Joe sent me over for it, for the bottle of medicine that you know. He said "All right", and he went in a little room in Charley Warner's, and give it to me.

Q What did he say to you at that time? A He said "I wish I could put a teaspoonful in Baff's coffee".

Q What was in that bottle Abe Graff gave you? A Poison. It was white.

Q And what did you do with it? A I took it up town -- I took it up town and give it to Ippolito Greco.

Q After you gave that bottle to Ippolito Greco did you have any further talk with Ippolito Greco? A I do not re-

call just now.

Q Well, did you have any further talk with Abe Graff or Joe Cohen after you gave the bottle to Ippolito Greco? A I told him that he took the job; and I explained who he was.

Q Did you have any further talk with Ippolito Greco about the horses after you gave him the bottle? A Yes, sir.

Q Did he tell you what he had done with it?

MR. MOSS: Objected to.

THE COURT: Objection overruled.

MR. MOSS: Exception.

A He told me that he went over to Baff's market and gave it to the horses.

Q How many horses? A He told me one. But then I found out --

Q Never mind that. After Ippolito Greco told you that he had given it to one of Baff's horses, did you have any talk with Louis Cohen? A Yes, sir, in his Market in 110th Street.

Q How long was that after? A That was the next day.

Q The next day? A Yes, sir.

Q Tell us what talk you had with Louis Cohen?

MR. MOSS: Objected to as not connected with the action against the defendant here.

THE COURT: Objection overruled.

MR. MOSS: Exception.

A I went over to Louis Cohen and I told him -- I said "Louis Cohen, d you hear anything about the horses". Of course he knew it. He t "Yes, this morning the driver passed through here with the and I stopped him and I asked him if they were doing a big

business"; so he let him go, and after that the horses died.

Q He told you this? A Yes, sir.

BY THE COURT:

Q Let me understand it. Louis Cohen told you that the horses died? A Yes, sir. He told me that but that was after the horse was already dead -- one of them; and the driver, he said, told the boss -- he meant Baff or the manager, Neumark's son -- "because I asked him", he said "who was near the horses; and he said Louis Cohen stopped me in 110th Street--

MR. MOSS: I object to this.

BY MR. O'MALLEY:

Q This was a talk you had with Louis Cohen? A Yes, sir.

Q When you were talking with him about the horses of Baff?

A Yes, sir.

Q And do I understand you to say that he said that --

A I said to him first "Did you hear anything?" -- I went over for that purpose because he was a relation of Baff's and at the same time he had business with that market; so I went over and I said "Did you hear anything about the horses". And he said "Yes, Tony", and he told me the story.

Q Now, tell us again what he told you? A He told me that in the morning that the driver that went to deliver chickens --

Q One of Baff's drivers had come to his market? A Had passed through 110th Street going past to their own market; and Louis Cohen said he stopped Baff's driver and he asked him about the business, if they were doing a big business, you know;



so anyway he let him go after he got the information.

Q He told you this? A Yes, sir. So after the horses died, and the boss, the manager, asked the driver -- he said "Who were near the horses", to the driver. And the driver said "Louis Cohen stopped me" --

MR. MOSS: I move to strike that out.

Q Was this what Louis Cohen said to you? A Yes, sir.

MR. MOSS: I think the latter part of the witness's answer is not part of the conversation with Louis Cohen.

BY THE COURT:

Q Who said this? A All this talk was by Louis Cohen to me in his own market. That is plain enough.

BY MR. O'MALLEY:

Q That is, Louis Cohen told you that Baff's driver had told Baff's manager that Louis Cohen had stopped the horses that day? A Yes, sir. So they suspect the whole thing upon Louis Cohen about poisoning the horses. He said "They suspect the whole thing on me, they think I poisoned the horses". So down in the market even Baff called him "Horse-poisoner".

MR. MOSS: I move to strike that out.

THE COURT: Motion granted.

Q Is this another talk you had with Louis Cohen? A Yes, sir.

Q Where did you have that talk with him? A In his own market.

MR. MOSS: A talk with Louis Cohen that everybody in the

market called him a horse poisoner?

THE WITNESS: Yes, sir. You see Louis Cohen used to come in the market to buy poultry and already Baff suspected that Louis Cohen poisoned his horses.

MR. MOSS: That is the witness's own expression.

THE COURT: Strike that out.

Q Tell us the talk you had with Louis Cohen? A That is what he told me -- that he had gone down in the market, and down in the market Baff called him a horse poisoner, and everybody used to hear it down in the market.

MR. MOSS: I move to strike that out.

THE COURT: Yes, strike out that last part that everybody used to hear it.

Q How soon was that talk with Louis Cohen after? A Two or three days later.

Q Did you have any talk with any other persons besides Louis Cohen about poisoning horses? A Willie Simon, Abe Graff, Joe Cohen and David Jacobs.

Q What talk did you have with Joe Cohen about it afterwards? A He know it from down the market.

MR. MOSS: I move to strike that out.

THE COURT: Motion granted.

Q What talk did you have with Joe Cohen? A I told him that Ippolito Gracco had done the job.

Q What did he say? A He said "All right, pay him out of the drawer, Tony".

Q Did he tell you how much you should pay him? A I do not recall if it was \$25. or \$15.; I do not recall.

Q And after that talk did you pay anything to Ippolite Greco? A Yes, sir.

Q How much, do you recall? A I don't recall how much it was. David Jacobs ought to recall that.

Q Did you talk with David Jacobs about it? A Yes, sir.

Q Tell us what talk you had with him and where? A In our own market.

Q What talk did you have with him about it? A I told him the story that Louis Cohen told me, you know.

Q About how long after you had these talks about the poisoning of the horses, did you have the talk with Abe Graff? A When I went down the market next day -- the same day that I spoke to Joe Cohen and Willie Simon.

MR. GILCHRIST: And will you state the time and place of the conversation?

Q How soon was that after? A The next day -- no more than Louis Cohen told me I went back and I told him.

Q You have already fixed the place of your talk with Jacobs in your own market of Cardinale & Jacobs? A Yes, sir.

Q And I think you have also told us about what you said to him? A Yes, sir.

THE COURT: You and Jacobs were partners at that time?

THE WITNESS: Yes, sir.

Q I understood you to state that you told him the talk you

had with Louis Cohen? A Yes, sir.

Q Did you have any talk with David Jacobs -- A Yes, sir, I did.

Q Wait a moment -- after you talked with Joe Cohen about poisoning the horses and after Abe Graff, as you say, gave you this bottle, about this matter?

THE COURT: Put that question again.

Q After you had received the bottle from Abe Graff do you remember whether or not you had any talk with David Jacobs about the matter, before you talked with Louis Cohen? A Yes, sir. He knew no more the job was given to me by Joe Cohen --

THE COURT: Strike out all after "yes, sir".

Q What talk did you have with him? A Joe Cohen had told me to <sup>get</sup> ~~give~~ Baff's horses poisoned.

Q What if anything did Dave Jacobs say? A He said "All right, go ahead and speak to Ippolito Greco". He knew who he was.

Q Now, you have told us about a conversation you had with Joe Cohen about having Baff killed, in which Joe Cohen said there would be \$500. in the job. Do you remember that?

A Yes, sir.

Q And you have fixed that talk down in West Washington Market? A Yes, sir.

Q After having had that talk with Joe Cohen did you speak to anybody else? A Yes, sir.

Q Did you speak to Ippolito Greco? A Yes, sir.



Q What talk did you have with Ippolito Greco ? A I told him that Joe Cohen wanted to have Baff killed and there was \$500. in it. He says "I will take the job myself".

Q He said he would take the job himself? A Yes, sir.

Q After having had that talk with Ippolito Greco did you and Ippolito Greco go anywhere? A Yes, sir.

Q Where did you go? A Down in the market.

Q And when you got down there whom did you see? A I seen -- Baff and his son.

Q Where were they? A Down in the market.

Q When you saw Baff and his son was Ippolito Greco with you? A Yes, sir.

Q Did you say anything to him? A I pointed Baff and his son out to Ippolito Greco.

Q On that day when Ippolito Greco was down there did you see any of these defendants. I withdraw that question. Did you have any talk with the defendant Graff that day?

A Yes. He said "Who is that fellow". I says "That is the fellow that is going after Baff". And he said "He looks like it, he looks to be a good fellow, he looks like a good fellow".

Q How long had Ippolito Greco stayed down in West Washington Market that day? A He took a walk around the market to look the place over.

Q And then did he leave? A Yes, sir.

Q After he left did you have any talk with Joe Cohen?

A Yes, sir, later on.  
~~Timothy D. Lehman~~

Q What talk did you have with him? A I told him he was down.

Q What did Joe Cohen say? A He said "All right, I did not speak to him, he went home".

Q After this talk with Joe Cohen did you again see Ippolito Greco? A Yes, sir.

Q And where did you see him? A In the saloon.

Q Up town? A Yes, sir.

Q Now, that saloon was at 227 East 107th Street? A Yes, sir.

Q What talk did you have with Ippolito Greco when you talked with him again? A I told him what he had to say.

THE COURT: What who had to say?

THE WITNESS: Ippolito Greco.

Q No. What did he say to you and what did you say to him?

A He said he don't like the place because there has got to be more than one fellow to do it, there is a lot of people around.

THE COURT: Who said that?

THE WITNESS: Ippolito Greco.

Q What else did he say, if anything? A He said that there is a policeman around there all the time on horseback.

Q Did he say anything about the money that was in it? A He did not think that the \$500. was enough.

Q After talking with Ippolito Greco did you talk with ~~the~~ any other person after you got down in the market? A With Abe Graff and Joe Cohen -- all of them.

Q What talk did you have with Joe Cohen, if anything?

A I told him that he did not like the \$500. proposition, that it was not enough.

Q That who did not like it? A Ippolito Greco.

Q You told Joe Cohen that Ippolito Greco did not like the proposition about the \$500.2 A That he wanted more money like, that he needed more fellows to do it.

Q And what did Joe Cohen say? A He said "That is enough; nobody will make a grab for them.

Q Did he say anything else on that subject? A "Because everybody hates him, that he was the man that used to ruin the business".

Q Did he mention any particular person as to who hated him?

MR. MOSS: Let us have the whole conversation first.

THE COURT: Exhaust his recollection first.

Q Is there anything else that was said at that time that you remember? If there is not, just tell us. And if there is, tell it? A He even told me that Abe Graff would be there to do the watch out in case anybody would have grabbed the gun man, Abe Graff would be there to watch to see that they did not get grabbed.

Q Now, what was the next conversation that you had, if any, with any of the defendants after that? A I told Willie Simon and Louis Cohen the same thing.

Q Tell us what talk you had with Willie Simon, if anything?

A That he did not want to do it for \$500, I told him.

Q And what did Willie Simon say?

MR. MOSS: I object to conversations with Simon as immaterial.

THE COURT: Objection overruled.

MR. MOSS: Exception.

A Willie Simon did not make no price with me at all. I used to tell him all about it. He said "Tony, the only thing I want to know is when that thing is going to happen because I do not want to be around". He told me that and Louis Cohen and Joe Cohen -- they all used to tell me that when they come down "Put us wise as we do not want to be around".

THE COURT: Who said that?

THE WITNESS: Joe Cohen, Louis Cohen and William Simon.

THE COURT: Who else?

THE WITNESS: That is all I can recall.

Q Did you have any conversation with the defendant Joseph Cohen after you had this conversation with him in which you told him that Ippolito Greco did not want to do the job for \$500. because he would have to have one man in it? A Yes, because you see I explained to Ippolito Greco what Joe Cohen told me -- that Ippolito Greco, no more than he comes down to shoot Baff to kill him there would be nobody to make a grab for him. And Ippolito Greco said all right, he figures that. "I have to have somebody to watch my shoulders"; he was afraid that somebody would have grabbed him, and he told me to have somebody to watch him.



Q Now, after you had that talk with Ippolito Greco, did you see Joe Cohen again? A I used to see him always.

Q When you saw him again did you have any talk with him in regard to what Ippolito Greco had told you? A Yes, sir.

Q What talk did you have with him? A I told him that Ippolito Greco did not care to come down for that price because there had to be more than one, and he was afraid to come down for that money all alone you know.

Q What did Joe Cohen say, if anything? A He was always said he should not be afraid; he is the one that ruins the business; he ruins everybody; they cannot make a piece of bread and butter; no more than they see him get killed they will all go out and get drunk.

Q Who would go out and get drunk? A Everyone in the business.

THE COURT: In the market?

THE WITNESS: Yes, sir.

Q Now, what was the next thing that occurred in respect to any talks that you had with Joe Cohen or Abe Graff or any of the defendants? A Yes, once I was up in the market in my business --

Q Uptown in your market? A Yes, sir. And Joe Cohen sent up Abe Graff; it was late -- maybe after five.

MR. MOSS: I move to strike that out.

THE COURT: Strike out that Joe Cohen sent up Abe Graff.

Q Did you see Abe Graff? A No, sir.

Q Up town? A No, sir. I seen him the next day down in the market.

Q What talk did you have with him the next day down in the market? A He told me that Joe Cohen sent<sup>him</sup> up --

MR. KOPP: About when was this?

Q Can you fix about the date when this talk was? A I cannot. I do not recall that.

Q Can you tell about how long it was after the Neumark fire. That was October 2, 1913? A Not very long later. It may be a month or two later.

Q About how long after Ippolito Greco was down in the market with you was it that you came down one morning into the market and had a talk with Abe Graff? A About 6 or 8 weeks later.

Q What talk did you have with Abe Graff? A No more than he see me and he said "Hello, Tony; I was up in your place last night and you were closed; I could not get where you lived"; and he even told me he went in the saloon but I do not know whether he did or not. And then he told me that Joe Cohen sent him up.

Q Sent him up to you? A Yes, sir; and he could not find me.

Q Did he tell you what Joe Cohen had sent him up for? A No, sir.

Q After having that talk with Abe Graff did you have any talk with Joe Cohen? A Yes, sir.

Q What talk did you have with him? A No more than to see him and he said "I sent up Abe Graff last night and he could not get you". I says "I know, he told me it before". He says

"How are they making out; don't they want to do it?" I said  
"I do not think they like the idea about the \$500." He said  
"Tell them to do a good job, it will be a little more money".  
So the only thing I can do I go up and tell them again, and I  
went up and told Ippolito Greco. And Ippolito Greco started  
to go down there with two or three other fellows.

Q Now, after this talk that you had did you ever see Joe  
Cohen in any other place except West Washington Market?

A Up in my market.

Q Up in your market? A Yes, sir; and he was already be-  
fore -- this I forgot to say -- he was already before there  
once, I think it was election night he came there alone and  
he came and we had a drink in Ippolito Greco's saloon -- just  
me and him.

Q Joe Cohen? A Yes, sir.

Q You were telling us about a time you saw Joe Cohen up in  
the market? A Yes, sir.

Q Who else was there with him, if anybody? A Jake Cohen,  
David Jacobs, Joe Sorro and me.

Q How long was that after this talk you had with Joe Cohen  
about his having sent Abe Graff up to you? A The next night  
or two days later.

Q Had you had any talk with Joe Cohen before he came up?  
A Yes, sir.

Q What talk was it? A I told him -- you see he did not  
want to know anybody -- He told him me "I don't want to know

him, Ippolito Greco, for that job". I says "You don't need to be afraid, he is one of the good fellows; he does lots of things in Harlem; you don't need to be afraid to make your own price with him". And he came up.

THE COURT: / Who came up?

THE WITNESS: Joe Cohen and Jake Cohen.

Q Joe Cohen and Jake Cohen came up in the market of Cardinale & Jacobs? A Yes, sir.

Q Who was there? A Me, Joe Sorro; my partner Jacobs; Joe and Jake Cohen.

Q What took place after they got there? A I told him to come up town and make the price himself with Ippolito Greco.

Q You had told him that before? A Yes, sir.

Q After they got up there what took place? A I sent Joe Sorro to get Ippolito Greco.

Q At that time was Joe Sorro working regularly with Cardinale & Jacobs? A Yes, sir.

Q And he was the same Joe Sorro who had placed the bomb?  
A Placed the bomb.

Q Did Joe Sorro go away? A Yes, sir.

Q Did he come back? A Yes, sir, he come back with Ippolito Greco.

Q You say Ippolito Greco came over to the market? A Yes, sir, he came a little after Joe Sorro. Joe Sorro said "All right, he is going to be over".

Q Tell us what took place when Ippolito Greco came into the



market? A Joe Cohen and Jake Cohen and David Jacobs -- they said "All right, it is \$700.; we will give you 2 or 3 hundred dollars as long as you do a good job; don't be afraid; nobody will make a grab on you".

BY THE COURT: Q Who was present then at that conversation? A Me, David Jacobs, Joe Sorro, Jake Cohen, Joe Cohen.

Q Who was it make the statement you just have given about doing a good job? A Joe Cohen.

BY MR. O'MALLEY:

Q And to whom did he make that statement? A To Ippolito Greco. Ippolito Greco could not speak very well English and I done the interpreting like.

Q You did the interpreting? A Yes, sir.

Q So that Joe Cohen spoke in English? A Yes, sir.

Q And you interpreted the English into Italian? A Yes, sir.

Q Tell us what Ippolito Greco said, if anything? A He said that he wanted to have some money ~~xxx~~ ahead.

Q Some what? A Some money before.

Q Was anything said about the \$500.? A Yes, sir. He said \$500 is enough.

Q Who said that? A Joe Cohen.

Q Did anybody else say anything on that? A No. They were all present but they did not do much talking, but Joe Cohen.

THE COURT: Who mentioned the \$700?

THE WITNESS: Joe Cohen.

Q What did he say about the \$700.? A He said that would be enough, that is good money, they should go down in the market and give it to him down in the market and there would be no trouble at all.

Q What did Ippolito Greco say if anything to that? A He said he wanted to have some money ahead, before.

Q Well, what else was said? A He said, "We don't give you no money ahead; no more than you do the job the money will be out of the drawer; Tony will make good, because there is plenty cash money in the drawer always."

THE COURT: Who said that?

THE WITNESS: Joe Cohen.

Q How long were you there that evening, Tony? A Not long; may be twenty or twenty five minutes.

Q And where did you go when you left there? A To Ippolito Greco's saloon.

Q Ippolito Greco's saloon? A Yes, sir.

Q How many went to Ippolito Greco's saloon? A Five.

Q The same five? A Joe Sorro went home.

Q So that there was Joe and Jake Cohen, Davy Jacobs, yourself and Ippolito Greco? A Yes, sir.

Q Did you have any further talk in the saloon about the matter? A No, sir.

Q What did you do in the saloon? A I had a drink--that is all.

Q Now then after that will you tell me ~~all~~ of any talk that you had with Ippolito Greco? A He told me that he was going to go down then with a few fellows. He never told me who the fellows was though.

Q Let me ask you this. After this occurrence that you told us about did you see Ippolito Greco go down in the market again? A Yes, sir.

Q How soon? A Four days after or five days.

Q And did you have a talk with him there? A Yes, sir.

Q What talk did you have? A I told him that they should not be afraid, that there was going to be somebody on watch-- to watch them. I never had much talk. I never wanted to stay near them down in the market either.

Q Tell me the first talk that you recall that you had with Ippolito Greco after you saw him down in the market, about

this matter? A Yes. He thought that it would be best to do it with a rifle.

Q Did he mention what place it would be best to do it in? A I don't remember. With a wagon or in Brooklyn--one of the two. I don't recall which started first.

Q Did you ever have a talk with Ippolito Greco about Brooklyn? A Yes, sir.

Q Tell us that talk? A He said that he had a rifle, a big rifle, that he wanted to kill Baff with the rifle out in Brooklyn where he had a market. Already Joe Cohen gave me the information about Baff's market in Brooklyn.

Q What talk did you have with Joe Cohen about the Brooklyn market? A You see Ippolito Greco did not want to do it down in West Washington market; so he wanted to try it in Brooklyn. And there Ippolito Greco had a friend there near Baff's market in Brooklyn; and he said that this friend was going there with the excuse to buy the wagon, that Baff had a wagon for sale; so they were going to make the proposition that they were going to speak to the boss;-- and they meant Baff-- to make a price for the wagon; and no more than they went there they were to shoot him. So Baff did not go there.

Q Who told you that? A Ippolito Greco.  
BY THE COURT:

Q Did he tell you whether or not he went to Brooklyn? A Yes, sir, he told me he went there a couple of times.  
Q With his friend? A His friend lived there.



say he

Q Did he and his friend were going to Baff's place?

\* friend was going over to Baff's.

Q Did he say whether or not his friend went there? A Yes.

Q And that Baff was not there? A That he was not there, that he was too busy; That Saturday night was the only time he was around.

Q Who told you that? A Ippolito Greco.

BY MR. O'MALLEY:

Q Did you have any talk with any of the defendants about this Brooklyn matter? A Yes, sir, with Joe Cohen, Davy Jacobs and William Simons and Louis Cohen.

Q What talk did you have with them? A That they were going to try to get him in Brooklyn at his market.

Q Did Joe Cohen say anything about that? A That they should be careful and do a good job. And I explained it to him that they were going there with the excuse to buy the wagon--that is the way they were going to get him.

THE COURT: Who did you tell that to?

Jake

THE WITNESS: Joe Cohen, ~~A~~ Cohen, Louis Cohen, Davy Jacobs and Abe Graff.

Q Did you have any further talks after that with the man Ippolito Greco about the job? A He got sick doing it up there-- you see Baff did not go there; so he said, "I am going to try up in 80th street, New York."

Q With what? A With the rifle.

Q Did you have a talk with him on that? A Yes, sir.

Q What did he say? A He told me that he was going to shoot him through the fence; there is a fence there in 80th street; no more than Baff would have passed with his automobile, he would shoot him there and get out through 79th street.

Q Do you know whether or not Barnett Baff had a branch on East 80th street? A Yes, sir.

Q Can you tell me about where it was, between what avenues?  
A Near the river.

Q And on which side of the street? A The downtown side.

Q Was it between First Avenue and the river? A Yes, sir. I guess there is another little avenue there, but I don't know the name of it.

Q Have you told us everything that Ippolito Greco told you about that? A Yes, sir, what I recall.

Q Do you know whether Ippolito Greco said anything--do you recall Ippolito Greco saying anything about having a friend near there? A Yes, sir, he had a friend there in 80th street that would give him information when Baff would get there.

Q Did he say anything else about this friend? A No, I do not recall.

Q Did he say what his business was? A No, sir. It was a stable I guess.

THE COURT: Did you tell that to any one?

THE WITNESS: Yes, sir.

Q To whom did you tell that? A To Joe Cohen and Abe Gr...

Willie Simons, Louis Cohen and Davy Jacobs. They all knew every word that used to go on.

Q And where did you see them. Do I understand you to say you always saw Joe Cohen down in the West Washington Market?

A Most of the time I used to see Willie Simons down in the market. Very seldom I used to see him in 110th street, because he used to go there only on Saturday night to make out the checks; may be some Saturdays he did not go there; Louis Cohen I used to see in his own market at 110th street; but sometimes I used to see him down in the market too.

Q And where would you see the defendant Abe Graff? A At Werner's stand. That is where he used to be every day and every minute too.

Q Now, after this talk with Ippolito Greco about the East 80th street matter, did you have another talk with him? A Yes. That he could not do it there either.

Q What is that? A That he could not do it there either.

Q What did he say about it? A He said that he could not get in there; he was going to try in 108th street, that he used to go there too, you know,--that is Baff's Market.

Q That is, Baff had a market on East 108th street?

A Yes, sir.

Q Between what avenues was that located? A Between First Avenue and the river.

Q And that was the market that Newmark used to own?

426-3244

A Yes, sir.

Q Tell us everything that Ippolite Greco told you about the East 109th street Market? A He told me he was going to shoot him with a rifle through his own roof. That he would go in through the side--there is an empty lot there, so that he could climb up on the roof and stand there with the rifle, and no more than he would get off from the automobile he would shoot him there.

Q Did you have any talk with the defendants about that? A I explained the whole thing to them too.

BY THE COURT:

Q To whom? A To Joe Cohen, Jake Cohen, Abe Graff and Davy Jacobs.

Q And what was said? A Joe Cohen said that they should take their time and do it right.

BY MR. O'MALLEY:

Q Now at this time were there any other persons besides these four defendants and William Simons and Louis Cohen that you ever talked with about killing Raff? A Yes, sir, the Motuffsky Brothers. That was later on though.

Q Up to this time you had not had any talk with them? A No.

Q What was the next talk you had with Ippolite Greco?

A That he could not get him there either.

Q Did he say anything else? A He said, "I would like to get him home and put poison in his milk"-- because he had poison



in that bottle, and he knew that that was so strong that if he put some of it in the bottle of milk it would poison the whole family like. And I said, "No, don't you do that." And I reported that to Joe Cohen, and he said, "No, only Baff, he is the cause of the whole trouble, we don't want to kill the whole family to get him."

Q Where did you have that talk with Joe Cohen that he did not want to kill the whole family? A Down the market.

Q Did you have any talk with any one else that you now recall? A With Louis Cohen, Willie Simons and Abe Graff—they knew all about it,—and my partner Davy Jacobs.

MR. KOPP: I move to strike out that they knew all about it.

THE COURT: Yes, strike that part out.

Q Proceed. A I told him that Ippolito Greco was going to try to poison the milk bottles in his home in 120th street; so I told him not to do it. So I went to work and told Joe Cohen; and Joe Cohen said, "No, he is the only one, that he ought to get it, not the family, we don't want the family to get it."

Q Now, after that will you tell us the next talk you recall you had with Ippolito Greco? A I don't recall it just now.

THE COURT: After the poisoning talk.

THE WITNESS: Oh, yes, sir.

Q What was it? A He told me he wanted to do it with the rifle down in the market, and his rifle was too big, and it

was bad to carry down there.

Q Now before that talk do you recall having had any other talk with him about doing it in West Washington market?

A Yes, sir--to go down and shoot him with the revolver through the coat pocket.

Q Tell what was said at that time about shooting Baff through the coat pocket? A That he should not be afraid to go down there and nobody would make a grab for him.

BY THE COURT:

Q Who said that? A Joe Cohen. Always he used to say, "Why don't they come down here and give it to him down here, nobody will make a grab for them."

Q After you talked with Ippolito Greco about going down there to West Washington Market to shoot Baff with the revolver did you see him down there? A Yes, sir..

Q How soon after you had this talk with him? A A few days after.

Q When you saw him down there did you see any one else with him? A Yes, sir.

Q Who did you see with him? A I seen a fellow by the name of fat-- which I know now; I never knew it before.

Q Do you know his name at the present time? A Carmine Di Paolo. I learned that name now.

Q You have since seen the man that you saw down in West Washington Market with Ippolito Greco and whom at that time you knew as "Fat", and you know him now to be Carmine Di

Paolo? A Yes, sir.

Q Did you see anybody else with Ippolito Greco down there at the time that you saw Carmine Di Paolo? A Yes, sir. I seen a very skinny fellow, a little kid.

Q Did you have a talk with Ippolito Greco about these two men that you have mentioned-- Carmine Di Paolo and the other man? A Yes, sir, that was after I had seen them down there, I said, "What are you doing sending them kids down there." He says, "Don't be afraid, them kids they take such kind of snuff, they will do anything."

Q You say "some kind of snuff". A Some kind of snuff they take to give them nerve.

Q Now, you told us about this young skinny fellow? A Yes.

Q Do you know his name now? A Russo, something like that.

Q Carmello Russo? A Yes, sir. 8

Q Charlie Ross. How many times did you see those two fellows that you have now described, down there in West Washington Market with Ippolito Greco? A I never went down, always with Greco you know.

Q I don't say you did. I am asking you how many times you saw those two young fellows down there with Ippolito Greco, that ~~time~~ you went down? A Twice--three times.

Q Where did you see them in West Washington Market at the time you saw them down there with him? A Once I seen them standing on Baff's corner like. You see it makes two corners.

One was sitting here (indicating) on some empty coops, and the other was on the other corner like.

Q I show you Exhibit 3 in evidence (handing), and I point out the place here that has been described as where Baff had his place of business -- there (indicating)? A Yes, sir. And this is the river here (indicating).

Q This is the river here (indicating)? A And he was standing here (indicating), where there were empty coops.

Q That is, he was standing at the northeasterly corner of Thompson Avenue and 13th Avenue? A Yes, sir.

Q And where was the other standing? A Over here in this corner (indicating). They were waiting for Baff to come out here (indicating). And Ippolito Greco was standing over near the river.

Q At that time did you see anybody else down there besides Ippolito Greco and Carmine Di Paolo and Carmello Russo? A May be there were other people, but that was all I saw, because I used to see them people upthere.

Q Do you know a man named Joe <sup>Zaffarano?</sup> ~~Di Paolo~~? A Yes, sir.

Q And Antonio <sup>Zaffarano?</sup> ~~Di Paolo~~? A Yes, sir.

Q Tell me whether you ever saw either Joe <sup>Zaffarano</sup> ~~Di Paolo~~ or Tony <sup>Zaffarano</sup> ~~Di Paolo~~ with Ippolito Greco at any place, after Ippolito Greco started out to kill Barnet Baff? A I used to see them in a saloon in 107th street.

Q In East 107th street? A Yes, sir, and sometimes I used



to see them walking together.

Q Who? A Ippolito Greco and them fellows.

BY THE COURT:

Zaffarano

Q The same two? A The same two and ~~Zaffarano~~ too,

Most of the time I used to see Ippolito Greco and Zaffarano with the missing finger--I don't know if it is Joe or not.

MR. O'MALLEY: Is Joe Zaffarano here in court?

Q What Zaffarano was that fellow with the missing finger?

A A very dark complexion fellow.

Q Did you ever have any talk with Ippolito Greco about Joe Zaffarano and Tony Zaffarano? A No, sir.

Q Did you ever see Joe and Tony Zaffarano down in the market with Ippolito Greco about that time? A Yes, sir.

Q And about what time was that? A That was--

Q Was it before or after you saw these two kids that you have described? A That was after,-- after I saw Fat and the skinny kid.

Q Where were Zaffarano and Ippolito Greco at the time you saw them down there? A Walking down the market. I believe they were going to do it with the revolver in their pocket.

Q Did you have any talk with Ippolito Greco about it?

A Yes, sir, right on the corner.

Q You have told us about one occasion that you saw Carmine Di Paolo and Carmello Russo down there, and you told us also

saw them down there twice. Where were they on the second occasion when you saw them there? A Around Krakauer's stand.

Q That is on the southeasterly corner of Loew avenue and 13th avenue? A Near the river.

Q Did you have any talk with them down there? A No.

Q Was Ippolito Greco down there that same day? A Yes, sir.

Q Tell us what, if any talk you had with Ippolito Greco in regard to these two young fellows being down there? A I do not recall it.

Q Did you have any talk with him about why they did not do it? A Because Raff's son used to be together with his father.

THE COURT: Who told you that?

THE WITNESS: Ippolito Greco. Mr Raff and his son used always to walk together, and that is why they could not get him most of the time down in the market.

Q Who told you that? A Ippolito Greco.

BY MR. O'MALLEY:

Q Do you recall that he said anything else as a reason why they did not get him? A Because the kids, the fellows, was afraid because they saw so many people around.

Q Did you ever see these two Zaffaranos down there on more than one occasion? A Yes, sir.

Q About how many times did you see the Zaffaranos down there? A About three times.

Q Did you have any further talk with Ippolito Greco about these two young men being down there, that you now recall?

A Yes, sir, that they were supposed to do it with an ice pick.

Q Who told you that? A Ippolito Greco.

Q Tell us everything he said about that? A He said they may go down in the market and give it to him with a poisoned ice pick. I only knew that afterwards, see.

Q Do you know Moe Rosenstein? A Yes, sir; I do.

Q Tell me whether or not you ever had any talk with any of these defendants about Moe Rosenstein? A Yes, sir, with Abe Graff.

Q With Abe Graff? A Yes, sir.

Q Tell me about when that conversation was as near as you can; how long before Barnett Raff was killed, about? A About four months; three and a half months.

Q And where did you have the talk with him? A In Werner's stand.

Q Now will you tell us what conversation you had with Abe Graff. Talk loudly so that every one can hear you? A I told him always that they were afraid to come to do it, because there were so many people around.

Q To whom did you tell that? A To Abe Graff.

Q Any one else? A He said they should not be afraid.

Joe Cohen-- they all knew it.

Q Who did you tell it to? A Joe Cohen, Willie Simons, Louis Cohen and Davy Jacobs.

Q Did you talk with each and every one of them about the men being afraid to go down there and do it? A Yes, sir.

Q Now, you were going to tell us about a conversation you had with Abe Graff. Proceed and tell it? A He told me that he was on the watch in case anybody would have made the grab for them, that he would have stopped them; and he said "There is Chicken Moe, he is a good fellow, one of the boys, we will get him to be on the watch too". So he called him over. That was in the afternoon. And he told him about it.

Q Who was Chicken Moe? A Moe Rosenstein.

THE COURT: Who said this?

THE WITNESS: Abe Graff.

Q Now, tell us what took place ~~that~~ when you say Abe Graff called Chicken Moe over to you? A He called him over in Charlie We rner's stand -- that is where he used to work,-- and started to tell him--he said, "Now, here, Moe, these boys they are coming down to give it to Baff", and he explained that they were coming down to kill him, and they are afraid to do it; and he said, "I know you are one of the boys, will you be on the watch in case they come down in case some one makes a grab for them". And Chicken Moe said, "Tony, are you afraid to talk to me"-- because I did not talk that moment, Abe Graff done all the talking; he said, "Tony, don't



you know I am one of the boys, if any one of the bastards make a grab I will give it to them so hard they won't be able to get up"; he says, "I have Italian friends, good boys."

Q Was there any other conversation that you remember that took place between Abe Graff and Moe Rosenstein? A No, sir. I do not recall it just now..

Q What happened then? A I was walking around to get the chickens.

Q Did you notice whether or not Abe Graff and Moe Rosenstein were together when you went away? A I think they remained together.

1 Q Did you have any talk with any of the other defendants about Moe Rosenstein? A Yes, sir, with Joe Cohen.

Q Tell me what conversation you had with Joe Cohen about Moe Rosenstein. A He didn't care for Chicken Moe to know all this, because he didn't trust him.

BY THE COURT:

Q Joe Cohen said that? A Yes, sir.

BY MR. O'MALLEY:

Q What did he say about it? A He said, "He don't know me, want him to I don't know anything about it."

Q Will you tell me about any talk you had with any other person besides those you have already mentioned about the killing of Raff? A One of the Motuffekys?

Q Carl Motuffsky. A Yes.

Q Whereabouts? A Down at the market.

Q Where did you have that talk? A In Charley Hawk's, Charley Hawk's street, whatever you call it, I don't know the name of it.

Q Tell me what talk you had with them.

MR. NOSS: I object to it, it is not connected with the case or with the defendant.

THE COURT: How is that important now? I think you may show what the witness said to them, or to him, to the man you are referring to, but I doubt whether their statement to the witness is competent. Is it your claim that they were co-conspirators?

MR. O'MALLEY: I think from what they said, yes. I

won't press it.

THE COURT: The question is withdrawn?

MR. O'MALLEY: Yes.

Q Did you ever meet during this time Joseph Cohen, or Jake Cohen, or any of these defendants, any place outside of the market? A Yes, in Third street in a bath house.

Q On East Third street? A Yes, sir.

Q Who were there at the time? A Joe Cohen, Willie Simon, Jake Cohen and Harry Cohen and me.

Q Harry Cohen is a brother of the defendant? A Yes.

Q What did you do there? A We took a Turkish bath and then afterwards we had something to eat.

Q About when was that, Tony? A I don't recall the day.

Q Was it in cold or warm weather? A Warm weather.

BY THE COURT:

Q How often did you take a bath? A Only once. What do you mean? With them, only once. I used to take a bath twice a week.

BY MR. O'MALLEY:

Q This was a Turkish bath? A Yes. That is the only time I was bathing with them.

Q How long were you in this Turkish bath with these men?

A We got there about six o'clock, half past six, and got out of there about three or four o'clock in the morning.

Q You say you had something to eat? A Yes.

Q What did you have to eat? A Some spring chicken that



Willie Simons' wife sent him over.

Q To the bath? A Yes..

Q Who was there besides Joe Cohen, Jake Cohen and Harry Cohen and Willie Simon that you now know? A Some undertaker downtown somewhere.

MR. O'MALLEY: Call in Moses Gross.

Q Can you fix that time, about how long it was before Baff was killed? A A long time before, about six months.

Q What? A Six or eight months, seven months, I don't recall it.

Q Do you know this man? (Indicating) A Yes, sir, that is the man.

Q Was he there eating? A Yes, he didn't stay there long, he went away before we went to bed to take a nap.

MR. O'MALLEY: May it appear on the record that "this man" is Moses Gross?

THE COURT: Yes.

Q You say this man who just came in here was in the bath at the time? A He was at the table eating together.

Q Did he eat with you and the other men? A Yes, sir.

Q You say William Simon was there? A Yes.

Q And he took a bath? A Yes, and his boy was there too. Q His son? A Yes, sir, a little boy. Willie Simon has got a cut right here (indicating) he had an operation somewhere in the stomach, I don't know whether this side or the right side.



Q You noticed that? A Yes, sir.

Q You weretelling us the last time about the two kids being down there? A Yes, sir.

MR. KOEP: Down at the bath?

Q Being down at West Washington Market? A Yes, sir.

Q You mean Carmine Di Paolo and Carmelo Russo? A Yes.

Q Did you have any talk with any of these defendants about these young men being down there? A I don't recall, I don't think so.

Q After you saw these young men down there, what, if any, talk did you have with ~~xxxxxx~~ Ippolito Greco about killing Baff?

A That they would like to go down to the market if he had a rifle that wouldn't make no noise, that this was too big and would make a noise.

Q He told you that, did he? A Yes, sir.  
Ippolito Greco

Q After having that talk with ~~xxxxxx~~ Ippolito Greco, did you talk with any of the defendants? A Yes.

Q With whom? A Joe Cohen.

Q Where did you speak to him? A Down at the market and at Louis Feinstein's.

Q What talk did you have with him in regard to it? A I told him what ~~xxxxxx~~ Ippolito Greco told me, ~~xxx~~ he didn't care to go down, he want to do it with a rifle down in the market and his rifle was too big and he would like to have a rifle that wouldn't make no noise and no smoke. I told that to Joe Co-

BY THE COURT:

Q What did Joe Cohen say? A Joe Cohen said, "I tell you what you do, Tony, you meet Jake, my brother" -- no, he was there, his brother was there, Jake Cohen was there. He said, "Meet him tomorrow over to the Erie, because my brother has got a friend in Hoboken, that he sells rifles, and stuff like that, they will take you over there and you get it there." They told me to meet them the next day over to the Erie.

Q Told you to meet whom? A Jake Cohen and Harry Cohen.

Q Over where? A Over to the Erie.

Q Over to the Erie Railroad station? A Yes, sir.

BY MR. O'MALLEY:

Q Where, in New York or New Jersey? A New Jersey.

Q Did you the next day meet Jake Cohen? A Yes, sir.

Q Where? A Jake Cohen and Harry Cohen.

Q Where did you meet them? A Over to the Erie.

Q Over to the Erie yards? A Yes, sir.

Q Where is that located, Jersey City or Hoboken? A Jersey City.

Q I think the yards themselves are located in Hoboken, were they not?

THE COURT: No, the Lackawanna is located in Hoboken.

Q Where did you meet them? A In the Erie yard there.

Q When you met them, what talk did you have? A They say, "Come on, we will go over to him," and they took me over.

Q Where did they take you? A To a store that this man sells rifles and stuff like that.

BY THE COURT:

Q Who took you over? A Harry Cohen and Jake Cohen.

BY MR. O'MALLEY:

Q Jake Cohen, this defendant? A Yes.  
McEller

MR. O'MALLEY: Is Theodore ~~McEller~~ here?

BY THE COURT:

Q Where was the store that they took you to? A Near the Erie yards, about four or six blocks away.

Q From the Erie station, was it? A Yes, sir.

BY MR. O'MALLEY:

Q Have you since seen a man that you saw in that store that day? A I seen him the other day in front of the grand jury.

Q Did you learn his name? A No, sir.

Q Tell us what happened after you and Jake Cohen and Harry Cohen went into this store where they had guns. A He started to show all the rifles they had, but they didn't like it.

Q Who didn't like it? A Harry Cohen and Jake Cohen, and I was there too, you know.

Q What did they say? A They said, "They ain't the rifles we want, we want to have one that wouldn't make no smoke and no noise." So the fellow said there could be a silencer put on.

BY THE COURT:

Q Who said that? A The owner of the store, the storekeeper said a silencer could be put on.

Q The storekeeper said a silencer could be put on it?  
A Yes, and so he showed us a catalogue.

BY MR. O'MALLEY:

Q Was anything else said after the catalogue was shown?  
A They didn't like it anyway.

Q What did they say about it? A They said it wasn't right. The man even called up on the phone for them, they wanted to get the information how much a silencer would cost. He said a silencer would have to be put on by the factory some where.

Q By what? A By the firm that put them on, he couldn't put them on himself. I remember he called once or twice on the telephone.

Q Who did? A The owner.

Q The owner of the store? A Yes, sir.

Q How long were you there altogether? A About twenty-five or thirty minutes, or twenty minutes.

Q When you went in, tell us whether anything was said by Harry Cohen or Jake Cohen to this man, did they speak or didn't they? A Yes, sir, Harry Cohen was doing all the talking, almost.

Q How long were you there in that store? A About twenty-twenty-five or thirty minutes, I can't recall exactly.



8

Q Then where did you go? A I went home. I went over to the Erie and get some chickens, I had the wagon there.

Q Where did you get your chickens? A I don't know from who.

Q After the firm of Cardinale and Jacobs was formed, tell me where you got your chickens and poultry. A Yes, sir. Most of the time by Charlie Hawk.

Q To whose account were they charged? A Joe Cohen.

Q Did you ever have any talk with Joe Cohen about having chickens charged to him? A No, sir.

Q Well, do you know any member of the firm of G.Z. Hawk & Company? A Yes.

Q Who? A I don't know their names.

Q You know Charlie Hawk, do you not? A Yes, sir.

Q Charlie Hawk is the leading member of that firm, isn't he, -- he was at that time? A I think so.

Q You say most of the goods that you bought were bought from Charlie Hawk? A Yes, sir.

Q And they were charged to Joe Cohen? A Yes, sir.

Q Tell us how Cardinale & Jacobs paid Joe Cohen. A Sometimes we sent a check to Charlie Hawk --

MR. GILCHRIST: I object to that, -- I withdraw the objection.

Q How else was it done? A Sometimes we used to send down cash, I used to bring it down, and sometimes I used to send my little brother-in-law down.

Q Was that done all the time while you and Jacobs were in partnership? A Most of the time.

Q Do you know who looked after the books of Cardinale & Jacobs? A The first man was named

Q Leo Krakauer? A Yes, and then a man named Joe Spencer.

Q Do you know who hired Leo Krakauer and Joe Spencer? A Joe Cohen.

Q How often did Leo Krakauer use to go up there? A He used to come up there every Saturday.

Q You mean both of them together or one or the other?

A One of them at a time used to come around at seven or eight o'clock in the evening, and used to stay there, maybe, two or three hours, or an hour and a half, and I used to give them \$20 a month, if I ain't mistaken, \$5 a week used to be taken out of the business.

Q Twenty dollars a week or month? A Twenty dollars a month, \$5 a week.

BY THE COURT:

Q For what? A To look after the books.

Q Help you with the books? A Yes, sir.

BY MR. O'MALLEY:

Q Do you remember about the day you sold out your business of Cardinale & Jacobs? A No.  
month

Q Do you recall the ~~xxx~~ of September, 1914, about that time? A Yes, it was in September some time, I don't recall

the date.

Q To whom did you sell out your interest? A A fellow by the name of Cohen.

Q Abraham Cohen? A Yes, sir.

Q Any relation to this Cohen, so far as you know? A No.

Q Did you have any talk with Joe Cohen about selling out?

A Yes, sir.

Q Tell what that talk was. A Before I had a little trouble with Jacob, David Jacobs, in the market, we couldn't agree like, and I even once went over to the farm and made up my mind to leave the whole business over to him, and when I come back he told me he had already a customer who wanted to buy the market.

Before that I called up Joe Cohen and told him to come up,

I had trouble with his brother-in-law. He come up Saturday afternoon and I explained it to him. I didn't even talk to

David Jacobs, because, I tell you the truth, I thought he was stealing. But I never told him that then, because Joe

I  
Cohen come up and told him "I don't want to stay in the business for no money in the world no more, I can't get on with your brother-in-law." And he called him on the side and give him hell and said, "Why don't you be good, Tony is a good boy." He didn't tell him that in front of me, on the side. I didn't care to stay in the business no more.

Q Did you have any further talk with Joe Cohen about that business, or any other business? A That was afterwards. He told me what he said, he sort of laughed and said, "You look

up another place, I will back you up."

Q Do you know how long James stayed in the business after you sold out? A Maybe a week or two.

Q After that did the firm go out of business? A Yes.

Q Do you know personally about how much money was owing to Joe Cohen, at the time the firm went out of business? A I don't recall that, I know what I got for my share, I got \$1125.

BY THE COURT:

Q What did you do with it? A I gave it to Joe Cohen, I only kept \$50 out of it.

Q You gave it all to Joe Cohen on account of what the firm owed him? A Yes, sir. This Abe Cohen, he gave to his own lawyer, the fellow that bought my share, -- he and David Jacobs, -- he gave me \$600 or \$650, which he had drawn from a bank in 116th street, when I went out there with the money, and I paid the whole money to Joe Cohen and only kept \$50.

BY MR. O'MALLEY:

Q For your indebtedness to him? (No answer)

BY THE COURT:

Q For what you owed him? A Yes, I owed him more, I believe, but that is the only money I had to give him.

BY THE COURT:

Q You sold out your share to another Cohen? A Yes.

Q Is he related to Joe Cohen? A I don't think so.



Q You were telling about this trip over to Jersey City with Harry Cohen and Jake Cohen. After leaving there with your load of chickens, when did you next see the defendant Joe Cohen? A Down at the market.

Q Did you have any talk with him? A Yes.

Q What talk did you have? A I to'd him we couldn't get it

Q Get what? A The rifle with the silencer, the way they wanted it.

Q What did he say? A He said, "Here, Tony, I give you Ippolito Greco \$10, give it to ~~xxxxxx greco~~, he can buy it when he wants it."

BY THE COURT:

Q Did he give you \$10? A Yes.

BY MR. O'MALLEY:

Q After you got the \$10, where did you go? A To ~~Ward~~ Ippolito Greco  
~~XXXXXXXXXX~~

Q Did you see him? A Yes.

Q What talk did you have with him? A I told him we was in the store to get the rifle the way he wanted it, but we couldn't get it, and I told him that he give me \$10 to buy it the way he wanted it, and he said, "I tell you, you go and buy it, because if I go there they might get suspicious, I don't speak English." I said, "I don't know where to go, I am afraid to buy it," I told him. He said, "You don't want to be afraid, give a different name." He said, "Down in the Bowery there is a lot of fellows, and you go down and buy one."

BY THE COURT:

Q You went to the Bowery and bought one? A Yes, sir.

BY MR. O'MALLEY:

Q When you got there did you go to a store? A Yes.

Q What name did you give? A Tony Lippo, that is what Ippolito Greco

~~XXXXXXXXXX~~ told me to use, he said, "Don't give your right name."

Q You saw somebody in the store, did you? A Yes, sir.

Q Did you get a rifle there? A Yes, sir.

Q What did you get, tell the jury just what you got. A I went there, and he told me he wanted \$16, something like that.

Ippolito Greco  
for a rifle, and I went back and reported to ~~XXXXXXXXXX~~  
Ippolito Greco

and so ~~XXXXXXXXXX~~ said, "Here, I will give you the rest, because I want to keep the rifle for myself." And I went

down there and give the man the order, I don't recall whether

I give him \$5 or \$10 deposit, and I went there after three  
Ippolito Greco

days, and at the same time ~~XXXXXXXXXX~~ told me to give the order for more bullets, and I went uptown and told him they had to get them made to order. I don't know, the whole thing amounted to \$26.50, if I ain't mistaken.

Q Did you ever see this man before? (Indicating) A Yes, sir, that is where I bought the rifle.

Q Is he the man from whom you bought the rifle? A Yes.

BY THE COURT:

Q Where was the store? A On the Bowery, between Prince and Houston.

MR. O'MALLEY: May it appear on the record that this man's name is Frank Reside?

THE COURT: Yes.

Q Describe what you brought there, tell the jury what you saw. A Rifle, 22 Winchester, with a silencer.

Q Was it all in one piece, or sections? A Two pieces.

Q Explain the pieces, what were the pieces? A I don't know how you call them.

BY THE COURT:

Q One was the handle? A Yes, and the pipe and the silencer.

BY MR. O'MALLEY:

Q One was the stock, and the barrel and silencer? A Yes. He gave it to me in a paper box, cardboard box, wrapped up, that is the way I took it uptown.

Q You said something about bullets had to be made to order? A Yes, sir.

Q Was there a special bullet for this gun? A Yes, sir, special bullet, because it didn't make no noise and smoke.

Q After you got that rifle, where did you take it? A He had to give the order to the factory, had to give the order, I don't know whether he gave the order or whether it was stock in the firm, I can't swear to it, he had to get it from the firm where they make it, they didn't have it in stock, they don't carry them in stock.

Q Do you recall about what day that was? A No, sir.

Q Have you since seen some papers with the dates on them?

A Yes, sir.

Q You don't remember that date? A No, sir.

Q What did you do with the rifle after you got it? A Took it up to my market.

Ippolito Greco

Q Then what was done? A I told ~~XXXXXX~~ I had it, and he come over to try it, and he tried it in the yard, in the stable.

Q Tell me what you saw him do with the rifle after he came there. A Put it together and he tried it.

Q How did he try it? A Tried it in theyard.

BY THE COURT:

Q Did he shoot it off? A Shoot it off.

BY MR. O'MALLEY:

Q Were any of these defendants there at the time? A David Jacobs, -- the Rabbi saw his rifle too.

Q You mean the Rabbi who worked with you? A Yes.

Q Did you have any talk with David Jacobs about the rifle? A I told him that was the Rifle ~~XXXXXX~~ Ippolito Greco wanted to use to kill Raff.

BY THE COURT:

Q You told Jacobs that? A Yes, sir, and he know it before I went there.

Q Did Jacobs say anything? A I don't recall it.

MR. KOPP: I ask to strike that out, "He knew before I went there."

THE COURT: Yes, strike it out.



BY MR. O'MALLEY:

Ippolito Greco

Q Did you have any talk with ~~Pauline Greco~~? A After what is that?

Q After this rifle with the Maxim silencer was brought up Ippolito Greco there? A Yes, ~~Pauline Greco~~ took that when he came down to the market.

Q How did he come down to the market? A He came down to the market with a wagon, and he told me he was going to try with the wagon, horse and wagon.

Ippolito Greco

Q Tell me everything that ~~Pauline Greco~~ told you about what he was going to do with the horse and wagon after he got this rifle. A He told me to get him some money, about \$50, to go down to Baff's to buy some chickens, he wanted to buy chickens, and if he would see him he would shoot him from the wagon.

Q Did you give him any money? A Yes.

Q How much? A I don't recall, \$40 or \$50, and David Jacobs knew it.

Q Tell us what time you talked with David Jacobs about it.

A I told him to give me the money out of the drawer, I was taking money out of the drawer to give it to Ippolito Greco, ~~Pauline Greco~~, he was going down with that excuse, and he said to go ahead.

Q Did you see the wagon? A Yes, sir.

Q Describe the wagon you saw. A The wagon was painted green, dark green, and had a round hole like.

Q Where was the hole? A In the back.

Q Did the wagon have a covering on it? A Yes, sir.

Q Who did you see in the wagon at the time? A I seen Ippolito Greco's Arichiello and ~~Pauline Greco's~~ brother, Ippolito Greco's

Q What is ~~Pauline Greco's~~ brother's name? A Joe Greco.

Q By Arichiello, you mean Guiseppe Arichiello? A Yes.

Q You understand him to be the man who has now been convicted of murder? A Yes.

Q Did you see the wagon after you left uptown? A No.

Q After you saw the wagon and saw Arichiello and Joe Greco ~~Pauline Greco~~, did you see them afterwards? A Yes.

Q Where did you see them? A Uptown.

Q After you saw them uptown in the wagon, did you see them down in West Washington Market? A No.

Q Did you ever see this wagon down at West Washington market? A Yes, sir.

Q Tell us about that. A I seen Arichiello driving the wagon.

Ippolito Greco

Q Where? A Down at the market, and ~~Pauline Greco's~~ brother, I believe, was inside the wagon with the rifle, but they had already bought the chickens off of Baff, chickens and spring chickens, and they had it in the wagon, and couldn't get Baff, and they come home. I went downtown then, and when they brought the chickens back to my market David Jacobs was there, and he took them. When I got back he said, "What is the matter, Tony, did they do anything?" I said, "I don't know," I didn't say any more.

BY THE COURT:

Q Jacobs said that? A Yes. I said, "Did you weigh the chickens?" And he said, "Yes, they brought the right weight."

BY MR. O'MALLEY:

Washington

Q Was this wagon which was in the West ~~Market~~ Market the same as the wagon you saw uptown? A Yes.

Q Had a hole in the back? A Yes. I saw it in the stable between 107th and 108th street. That is a stable with an entrance both in 107th and 108th streets.

Q You saw this wagon in the stable where? A 107th and 108th streets.

Q Whose stable was that? A I don't know, I guess it was Ippolito Greco's  
~~xxxxxxx~~ I ain't sure.

Q Did you ever hear what that stable was called up there?  
A No, sir.

Q Did you ever hear it called --

MR. GILCHRIST: Objected to as leading.

Objection sustained.

Ippolito Greco

Q Did you have any talk with ~~xxxxxxx~~ after this wagon came up to your market and brought these chickens?

A Yes, sir.

Q What talk did you have with him? A I said, "What is the matter, couldn't they do it?" He said, "No, Tony." He even told me they hired a fast horse like.

BY THE COURT:

Ippolito Greco

Q Who told you? A ~~xxxxxxx~~ told me he hired a

fast horse so when they stood there the horse would be quick enough to get away.

BY MR. O'MALLEY:

Ippolito Greco

Q Did ~~you~~ ~~you~~ tell you how Raff was to be shot from this wagon? A With a rifle.

Q How? A From the hole in the wagon.

Q Did you have any talk with any of these defendants that you recall about this wagon? A Abe Graff.

Q Tell us what talk you had with Abe Graff. A I told him it was time to watch, and he said, "All right," and he was watching.

Q He said he was watching? A Yes.

Q Did you see this wagon at any particular place in the market the day you saw it there? A I see it in that street storage near the ~~house~~ house there.

Q Was that the first time or second? A The first time I seen it.

Q Do you recall seeing that wagon on Thirteenth avenue?  
A Yes.

Q When was that, was that after the first time you saw it?  
A The second time.

Q Tell us about the second time that you saw this wagon down at West Washington Market. A If I ain't mistaken, it was Election Day, it was a holiday like, and there wasn't much business down at the market, and they left the wagon in the street there, and they got off the wagon and left



the rifle in the wagon.

BY THE COURT:

Q Who were in the wagon? A Arichiello.

BY MR. O'MALLEY:

Q And Joe Grecco? A Yes.

Q You have told me that you did see this covered wagon that you have described on Thirteenth avenue one day? A Yes.

Q Here is Lowe avenue and next is Hewitt avenue, and this is Thompson avenue, and this is Werner's place, and this is Hawke's -- where did you see the wagon when you saw it? A The first time it was up here. (Indicating)

Q The first time you saw it it was on Bloomfield street?

A Yes.

Q And the second time? A On Krakauer's corner.

Q Which is at the southeasterly corner of Thirteenth avenue and Lowe avenue? A Yes, sir.

Q At the time you saw it there, was it standing? A Standing.

Q Who did you see on the wagon? A I didn't see anybody on the wagon. There was a lot of fellows there, fourteen or sixteen years old, who started to fool around with the wagon, and they nearly pulled the wagon over --

Q Did you see that? A No, sir.

Q What did you see yourself? A I saw the wagon there.

Q Did you see anybody on the driver's seat at that time?

A No, I seen them walking.

Ippolito Greco's

Q Who? A Arichiello and ~~wasn't his brother.~~  
Ippolito Greco's

Q ~~wasn't his brother,~~ Joe Greco? A Yes.

Q You mean you saw them walking around the market? A Yes.

Q Did you have any talk with them? A No, sir, I never did. The only thing, Abe Graff came to me and told me afterwards there was a lot of boys playing with the wagon and nearly threw the whole wagon upside down, and so the fellows when they saw that got on the wagon and went away.

Q Did you have any further talk with Abe Graffe about that wagon? A He knew all the time they were going down --

THE COURT: Strike that out.

BY THE COURT:

Q Did you have any other talk with him about it? A I don't recall it.

BY MR. O'MALLEY:

Q Did you ever see this same wagon in the market again after you saw it there the second time? A No, sir.

Ippolito Greco

Q Did you have any talk with ~~wasn't his brother~~ about the wagon after you saw it there the second time? A Yes, sir, he told me that his brother and Arichiello was down there and couldn't do anything because the boys were playing around and Baff wasn't in, and so they come home, and he said then to go down again. I didn't see the wagon or them the next time either.

Q Tell me if you had any talk with any of the other defendants besides Abe Graffe about this wagon that you now recall? A They all knew it, Joe Cohen, David Jacobs, Willie Simons, Louis Cohen, they knew that.

THE COURT: Strike the answer out. Did you talk to them about it, did you say anything to them about it, or did they say anything to you about it?

THE WITNESS: I told them that they were going down with the wagon, and they all say, "I don't want to be around, just put me wise when they are coming around."

Q Did you ever have any talk with Jake Cohen in the market that you remember of aside from ~~what you~~ the day you went to Hoboken with him, did you ever see Jake Cohen at any other place? A Down at the market I used to see him once in a while.

Q You didn't talk with him there, -- did you ever see Jake Cohen any other place outside of West Washington Market and Jersey City, the day you went over there? A After that day I used to see him in the Erie, because they used to go down there once in a while.

Q Do you recall ever having seen him in Brooklyn? A I don't recall it.

Q Were you ever over to Joe Cohen's house? A Yes, sir.

Q When was that? A That was in the summer, if I ain't mistaken, his wife was out in the country. Joe Cohen took

me to his home in Penn street, and there in the yard he has got a lot of flowers around, and he take me there and said, "Tony, I would like to see that bastard get it." He said, "No more than he gets it, business will be good."

Q Did you see anybody else there that night? A Jake Cohen, but he didn't have no talk with me, he come there later, and only said, "Hello, Tony," and I said, "All right," and that is all.

Q Did you have any talk with Joe Cohen about that after Jake got there? A No, sir.

Q When was the next time that you talked with anybody that you remember now? A What do you mean the next time with anybody?

Q The next talk about Raff, or plan to kill him?

A Louis Cohen, Willie Simon, David Jacobs, Abe Graffe.  
Ippolito Greco

Q What was the next talk you had with ~~WILLIE SIMON~~ or Joe Cohen? A That they were kind of lazy, they were working on it so long and never done anything.

Q Who said that? A Joe Cohen.

Q Where did you talk to him? A Down at the market.

Q What talk did you have? A He said, "What is the matter, Tony, won't they do it?" I said, "I don't know, you think I am together with them? They got the job, I don't know how they are going to do it or when they are going to do it. They told me they are going down, that is all I can tell you, and when they tell me they are going down I will



tell you."

Q After that, did you talk with anybody? A ~~Metuffsky~~ <sup>Metuffsky</sup> brothers.

Q Never mind ~~Metuffsky~~ <sup>Metuffsky</sup>, did you talk with Paul Di Grecco again after Joe Cohen had this talk? A Yes, sir, I told him Joe Cohen had told me this, "What you want to do, when are you going to do it?" He said, "What you want, I am trying my best."

Ippolito Greco

Q Who said this? A ~~Paul Di Grecco~~ He said, "I can't go and kill him in front of everybody, I want to have a chance. He said, "I tell you what you do, you give the job to somebody else, anyhow, the money ain't enough, I don't care to do it."

Q Where was that talk? A I don't recall whether it was in this saloon or in my market.

Ippolito Greco

Q After having this talk with ~~Paul Di Grecco~~, did you see any other person? A Joe Cohen, Willie Simon, Louis Cohen, David Jacobs, Abe Graff.

Q Did you see any other person in Harlem after you spoke Ippolito Greco to ~~Paul Di Grecco~~ about this? A Yes, sir, he told me, "I tell you what you do, you speak to these two boys, they can do the job for you."

BY THE COURT:

Q What boys? A Two boys.

Q Did he give their names? A No, sir, -- I knew them.

Q Two boys that you knew? A Yes, sir.

BY MR. O'MALLEY:

Q After you talked with him about these two boys did you see them? A Yes, sir.

BY THE COURT:

Q See who? A The two boys.

Q Saw the two boys? A Yes, sir.

BY MR. O'MALLEY:

Q Did you talk with them? A Yes, sir.

Ippolito Greco

Q What talk did you have with them? A ~~Frank X X X X X X X X X X~~

told me, he said, "You speak to them two boys, they will do the job for you, I tried so many times I don't care to do it any more," and he didn't think that was enough money for it either.

Ippolito Greco

Q Who said that? A ~~Frank X X X X X X X X X X~~. He raised it to \$1,000.

Q Do you know when it was raised to a thousand dollars?

A I don't recall, I know when the two fellows got it, when I went to speak to the two fellows, they was ready to offer a thousand dollars.

Q Did you talk to anybody about the \$1,000? A Joe Cohen.

Q Where did you talk to him about that? A Louis Feinstein's, that was when we had private talks, confidential talks, we used to go to Louis Feinstein's.

Q Do you remember how the talk of \$1,000 came up? A I Ippolito Greco told him ~~Frank X X X X X X X X X X~~ don't care to do it, there are two fellows coming down to do it, and that ain't enough money."

Well, he raised it like, he said, "Tony, you know how it is, I ain't got no money, I am busted, I am losing money there." You know, he meant at the market. He said, "I have to see somebody. So, anyhow, he saw whoever he had to see and it was raised. He said, "All right, do a good job and they will get that."

BY THE COURT:

Q Get what? A Get a thousand dollars. That was ~~XXXXXX~~ Ippolito Greco.

BY MR. O'MALLEY:

Q Jos Cohen told you who he had to see? A No, sir.

Q Did he say where the person was he had to see? A No.

Q But he did tell you he had to see somebody, and after that he saw him? A Yes, sir.

Q And he said there would be a thousand dollars in it? A Yes, sir. Even he said, "If the job is pulled off right, there will be more money in it, Tony, as long as they do a good job."

Q You were telling us about a conversation you had with these two men. Tell us what it was, was any money mentioned then? A With the two fellows?

Ippolito Greco  
Q Yes. A I told them about the job that ~~XXXXXX~~ Ippolito Greco had, and ~~XXXXXX~~ Ippolito Greco didn't want to do it no more, and Ippolito Greco he told me to speak to them, and I said -- ~~XXXXXX~~ Ippolito Greco said at the same time, "You speak to them and I will put in a good

word for you too. And so when I spoke to them I told them Ippolito Greco ~~PaulixDixGrass~~ sent me over, and I explained the job to them, and he said, "All right, Tony, we will take it, but first we want to find out that nobody will be in on this job, we want to do it ourselves, we don't want nobody else to have anything to do with it."

Q Was anything said at that time about money? A I told them there was a thousand dollars, and they didn't like the proposition for a thousand dollars, and so I told Joe Cohen, "They don't care to do it for that money, they figure there is got to be more than two fellows, and if they do it with more than two fellows it wouldn't be enough money for anybody."

Q Where did you have the conversation with Joe Cohen?

A West Washington Market.

Q How soon after you spoke to the two fellows? A Four or five days after, because they had to speak to Ippolito Greco ~~PaulixDixGrass~~ Ippolito Greco ~~PaulixDixGrass~~ if he was through with the job, and I believe ~~PaulixDixGrass~~ told them, "I am through, you can do the job." They didn't want to do it for a thousand dollars, and I went to Joe Cohen and told him. He said, "Tony, now I don't care as long as they do it, it will be \$1500, as long as they do a good job. They won't get no money ahead." Them fellows wanted some money ahead, and he said, "No money ahead." He said, "No longer than the job happens you can pay it out of your business."



Q After you talked with Joe Cohen, then did you see these two fellows again? A Yes, sir.

Q Did you have a talk with them? A Yes, sir.

Q After having had that talk, did you see these two fellows again? A Yes, sir.

Q Where did you see them? A Uptown somewhere.

Q After that did you see them in West Washington Market?

A Yes, I took one of them down to show them Eaff, pointed out Eaff.

Q Where was Eaff when you pointed him out to them? A He was on the same sidewalk that Charlie Hawke has got his stand, walking down towards the river, or going in the restaurant, one of the two, I don't recall, but he was on that sidewalk.

Q Do you recall seeing any of the defendants the day you took this man down and pointed Eaff out to him? A I seen them, but they didn't see this fellow, they seen him afterwards on that day, because that day he only come down to look at him.

MR. KOPP: Can't we have the day fixed when that happened in reference to Eaff's death?

BY THE COURT:

Q About when was it? A About two or two and a half months before.

BY MR. O'MALLEY:

Q Before the shooting? A Yes, sir.

Q You say you don't recall that you talked to any of the defendants that day that you had this fellow down there with you? A I spoke to Joe Cohen, I told him some fellow was down there to look at him and look the ground over, because they figured they would do it with an automobile. He said, "All right, Tony, I don't want to know how they are going to do it, but put me wise, tell the boys to do a good job." He even told me, he said -- "Tony, no more than the thing happens I know me and my brother will be picked up as sure as anything."

Q When did he tell you that? A Away ahead.

Q Did he tell you why? A I don't know, maybe he had trouble with Baff before, I don't know.

MR. MOSS: I move to strike that out.

THE COURT: Yes, strike it out.

Q After you pointed Baff out to this man, did you see him down there again? A After, about three or four days.

Q Was anybody else with him? A There were two fellows.

Q Were they the two fellows to whom you had spoken?

A Yes, sir.

Q Did you go down with them, or were you down there when they came? A I was down there already.

Q Tell us what occurred after you got there and what you saw. A I was walking in the street of Charlie Hawke --

Q You were walking on Lowe avenue where Charlie Hawke's stand was? A The Werner stand, speaking to Abe Graffe, --

30 every time I used to go there I used to hang around there, and I seen these two fellows, and I walked down to the corner, and I seen a fellow named Frank Ferrara --

Q Where did you see Frank Ferrara? A Standing on the corner where the Mottus Brothers stand is.

Q Up here at that corner? (Indicating) A Yes.

Q The northeast corner of Lowe avenue and Thirteenth avenue? A Yes, he was standing there, and I don't see no automobile or nothing.

Q You saw him standing there? A Half way. I went over to the two fellows, I knew these two fellows, not that I had business with them, and I said, "What is he doing here," I didn't want this fellow --

BY THE COURT:

Q You mean Frank Ferrara? A Yes.

Q What did they say? A He said, "He come down to look the ground over." I said, "Don't you see there is a policeman around, he is liable to get wise." I don't know how they did it, but they went to Frank Ferrara, and he disappeared. I don't see them any more that day.

THE COURT: Gentlemen, we will take a recess until half past one, and please observe the caution I have given you before.

(Recess until 1.30)

(AFTER RECESS)

THE COURT: Now, gentlemen of the jury, we are going to adjourn the trial of the case to another room -- to Part II, General Sessions Floor. So that you will follow the officers to that part.

(The trial was then resumed in Part II. of the General Sessions Court.)

ANTONIO CARDINALE resumed the stand.

DIRECT EXAMINATION CONTINUED BY MR. O'MALLEY:

Q I think the last thing you said was that you talked with one of these men about Ferrara, and you said in substance that you did not want Ferrara to know anything about it? A Yes, sir.

Q And then they did appear? A Yes, sir.

Q Do you recall anything else that occurred on that occasion?

A I recall that I did not see the automobile or anything; they did not tell me where they were either.

Q How was Ferrara dressed when you saw him? A As a chauffeur.

him

Q And you say you saw <sup>him</sup> on 13th Avenue? A On the corner, on the sidewalk.

Q Do you recall whether you saw these two men again that evening, or when did you see them? A Yes.

Q Did you talk with them? A Yes, sir.

Q And what was your talk? A That they did not like the ground.

Q They did not like the ground? A No; and they told me they were going to try to do it with the revolver without the automobile.



Q Without the automobile? A Yes, sir.

Q And where did they say they were going to try it? A Down the market.

Q Where did you next see them? A About two days after.

Q Where? A Down the market.

Q And where did you see them in the market? A Around the corner of Charlie Werner's place.

Q Around the corner? A Yes, sir.

Q Was it on the little avenue where Charlie Werner had his place or on Lawton Avenue? A There is a poultry store standing right on the corner where Charlie Werner is.

Q That is on the corner near Joseph's there. Is that right? A I guess so.

Q And did you talk with them? A Yes, sir.

Q What talk did you have with them? A They told me they were down there to do the job, so that I should get wise and put Abe Graff and Chicken Moe to be on the watch.

Q Did you see Abe Graff that day? A Yes, sir.

Q Did you talk with him? A Yes, sir.

Q What talk did you have with him? A I told him that they were down to do the job, to go after Baff; so I said "Be on the watch". He said "All right, Tony, I know who they are" -- because he had already seen them.

Q You say he had already seen these two men? A Yes, sir.

Q Where? A On the corner there speaking to me.

Q Speaking to you? A Yes, sir.

Q Do you know whether at that time Abe Graff had spoken to these two men? A I do not think so.

MR. KOPP: I move to strike out the testimony that Abe Graff saw him speaking to these two men.

BY THE COURT:

Q Did you see Abe Graff speaking to these two fellows?

A No, but Abe Graff see me speaking to these fellows.

Q Where was he when you spoke to them? A Just around the corner -- he came around the corner, because I told him that I expected the fellows down.

Q Did he come towards you while you were speaking to them?

A Yes, sir.

Q Beckoning at you? A Yes, sir.

Q Looking at you? A Yes, sir.

THE COURT: I will let it stand.

BY MR. O'MALLEY:

Q How long did you see those two fellows around there that day? A A long time -- maybe about 2 hours; they were walking around the market.

Q And when you say "walking around the market", what streets do you mean? A Near Baffie street and on 10th Avenue.

Q And did you see them on that street where Hawk and Werner had their stands too? A Yes, sir.

Q Do you recall whether you saw Moe Rosenstein there that day? A Yes, sir.

Q Were you talking with him? A No.

Q Do you know whether or not Abe Graff talked with Moe Rosenstein that day? A He was together with Abe Graff, because they were going to do the watching.

THE COURT: Strike out that last part.

BY THE COURT:

Q They were there together? A Yes, sir.

Q While these two fellows were there? A Yes, sir.

BY MR. O'MALLEY:

Q Do you recall whether or not you saw Baff that day or not? A I do not recall that. I know that the fellows were walking around to see Baff and I believe to shoot him, and then too, they were following the two gun men.

Q You say the two fellows were there about two hours?

A Yes, sir.

Q When did you next see them? A I see them the next night I guess -- the next day. I cannot recall when I just saw them.

Q Well, did you have a talk with them then? A Yes, sir.

Q What talk was it? A They said they could not get him because he was with his son.

Q With his son? A Yes, sir, Harry Baff.

Q Now then, did you have any talk with them then about further plans? A I know the next time they came down Baff went into his stand.

Q Do you know what stand? A If you give me the name of it --

Q Do you know what avenue it was at? A Same street and it goes out where the pier is.

Q Where was it with respect to the avenue where Werner and Hawk had their stands? A It stood in the same street, but that stand had an entrance to the other street too.

Q That is, there is a stand that faces on Loew Avenue that has an entrance out on to Bloomfield Street, the next street up town? A Yes, sir.

Q (Handing) I show you this diagram Exhibit 2 and call your attention to the avenue that you have just referred to. Do you refer to Fleck & Hilman's stand? A Yes, sir. You see there is an entrance here (indicating) and this Baff was talking to somebody over here (indicating).

Q In Fleck & Hilman's stand? A Yes, sir. And the two gun men were here (indicating) and Chicken Moe was here (indicating); and Chicken Moe said "Give it to him"-- not in words you know but that means with his body -- motioned with his body.

THE COURT: Towards whom?

THE WITNESS: Towards the gun men.

THE COURT: Where was Baff at that time?

THE WITNESS: Right here (indicating).

BY MR. O'MALLEY:

Q You mean at Fleck & Hilman's? A Yes, sir.

MR. O'MALLEY: The witness is pointing to about the center of the stand indicated on People's Exhibit 2 as Fleck & Hilman's



THE COURT: Where did he indicate the two gun men were?

THE WITNESS: One gun man was here (indicating).

MR. O'MALLEY: Near the Bloomfield street entrance of Fleck & Hilman's stand.

BY THE COURT:

Q Where did Graff and Moe Rosenstein stand? A Abe Graff was on this side (indicating), and Chicken Moe was here (indicating).

MR. O'MALLEY: He indicates at the Bloomfield street entrance of Fleck & Hilman's stand.

BY MR. O'MALLEY:

Q And he motioned to the gun men who stood at the Loew avenue end of Fleck & Hilman's stand, with his body, did he? A Yes, sir.

Q Where was Baff at that time? A Right over here (indicating) talking with another man.

MR. O'MALLEY: He indicates in about the center of Fleck & Hilman's stand.

Q And where were you? A I was right near Abe Graff.

BY THE COURT:

Q What was done after Moe Rosenstein made this motion with his body? A The fellows did not want to do anything, they walked away. Then the next day that I seen -- I don't know if it was the same night -- they told me "Gee, that Chicken Moe has some nerve"; he says "Between the crowd like that he wanted us to shoot him, we would not take no chances like that".

18 245 190  
BY MR. O'MALLEY:

Q Now, after you had that talk with the two gun men about what Chicken Moe had said to them, do you recall what next talk you had with them? A Yes, sir. They told me they were going to come down, they want to do it with the rifle.

Q With the rifle? A Yes, sir.

Q And where did they say they wanted to do it with the rifle? A From some of the lofts but they did not know how they were fixed. So I told Joe Cohen --

Q You saw Joe Cohen? A Yes, sir.

Q What did you say to him about it? A I told him they were going to do it with the revolver; and I told him the whole thing that happened.

THE COURT: Say now what you said.

Q Tell now what you said? A I said that Chicken Moe -- they were there to shoot Baff and at the same time there were too many people around and Chicken Moe made that motion and they got cold feet and they went away. And then when they met me they said "That fellow has some nerve, he wants us to take a chance in such a crowd as that and we won't take no chance".

Q You told that to Joe Cohen? A Yes, sir. And I said they figured to come down and do it with the rifle. He said "All right, Tony, I think it will be a good idea".

BY THE COURT:

Q What about the loft? A And he told me -- he took me up in Charlie Hawk's loft, all the way up.

Q Who did? A Joe Cohen.

BY MR. O'MALLEY:

Q Now I show you People's Exhibit 2 (handing). You have already pointed out Charlie Hawk's loft on that? A Yes, sir.

Q It is on the south-westerly corner of Loew avenue and Lawton avenue there (indicating)? A Yes, sir.

Q There is an entrance from the street to Hawk's stand that takes you into the main floor, is there not? A Yes, sir.

Q How do you get up into the loft? A A little ladder nailed up there; I think it is made out of iron -- like a fire escape.

Q When you go up that ladder you come to another landing?

A Yes, sir; and they keep empty crates there.

Q After you go to that landing do you go to another little landing? A Yes, sir.

Q So that there are really three landings there, are they not? A I guess so. Before you go up on the top floor, I guess so.

BY THE COURT:

Q Have you ever been up in that loft before? A No, sir.

Q Nor since? A No, sir. That is the first time I was up there.

Q The first time you went there you went with Joe Cohen?

A Yes, sir.

BY MR. O'MALLEY:

Q When you go on to that third landing where did you go?

A We were walking towards Krakauer's stand.

Q I mean after you got to the third landing didn't you then -- A We got into a window like and then there is a ladder against the wall facing the avenue like.

Q And then you went up and got to another landing?

A Yes, sir. I followed him you know.

Q Joe Cohen went first? A Yes, sir.

MR. O'MALLEY: By permission of counsel for the defense, I offer in evidence a photograph which is a view showing the south side of Loew avenue from the North River looking east.

THE COURT: And showing some part of a building.

MR. O'MALLEY: And it shows the stands on the southerly side of Loew avenue between 13th avenue and Lawton avenue.

(Admitted and marked Exhibit 17)

MR. O'MALLEY: I will exhibit that to the jury (exhibiting photograph to the jury).

Q Now then after you climbed up through this window and then up the ladder to the loft, did you get into another room?

A A very large room.

Q And tell the jury how far that loft extended? A As far as Krakauer's.

Q As far as Krakauer's stand? A Yes, sir.

Q That is the last stand on the southerly side of Loew avenue and at the corner of 13th avenue? A Yes, sir.

Q So then you walked over all the stands on the south side of Loew avenue with the exception of Krakauer's stand? A Yes,



243  
Joe Cohen

sir, because we could not go through there. ~~October 1968~~ told me -- he says "Gee, I did not know that this was built up, that was only built up lately, because years ago I used to do things for him myself and it was not here". So that it could not be done through there.

Q Now then, if it had not been for that wall between Kra-kauer's stand and the next stand you could have gotten clear through to 13th avenue? A Yes, sir.

MR. O'MALLEY: I offer in evidence another photograph showing the south side of Loew avenue, from Lawton avenue looking west to 13th avenue and including the stand of G. Z. Hawk & Company on the south-westerly corner of Lawton and Loew avenue.

(Admitted and marked Exhibit 18)

Q Now, after you got to this brick wall tell us then what took place? A Then he said "May be they could do it down through the side". He meant the street which Charlie Hawk comes out -- they could shoot him through there. The roof comes down this way like (indicating).

Q How close to the floor does the roof come? A Right to the floor. They could put a hole through there and shoot him through the hole when he passed on the sidewalk.

THE COURT: Who said this?

THE WITNESS: Joe Cohen.

Q Then what took place? A I said "All right, I will come down and show them the place". And that is what I did. I went

up town.

Q You saw the two men up town? A I saw one of them.

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

Q What did you tell him? A I told him what Joe Cohen told me, and at the same time I told him about the place. He said "All right, I will come down."

Q And how soon after that did he come down? A I guess the next day.

Q Did you go down the next day too? A Yes, sir. I went down before him.

Q What time did you get down there that morning? A It was in the afternoon.

Q And did you have anything with you? A With me? Yes, sir, a rifle.

Q You had a rifle? A Yes, sir.

Q Was that the same rifle you bought down in the Bowery?

A Yes, sir.

Q How did you carry it down? A In a bag.

Q Tell us what took place on that date? A I went and put the rifle -- as I remember it I put it upstairs on the first floor by Charlie Hawk's, between the troughs. And then in the afternoon about five o'clock this here fellow come down.

Q This gun man? A Yes, sir. And he was standing on the corner -- he did not want to go near the stand where he was going to go up. So I went over and saw him and I says "This is the place where you are supposed to go up; when you have a

chance, go right up".

BY THE COURT:

Q What place did you point out to him? A Charlie Hawk's.

Q The same place you had gone up? A Yes, sir.

BY MR. O'MALLEY:

Q Go ahead? A So he made it his business to go up there.

Q Did you see him go up? A Yes, sir, and I went up, and I showed him the whole loft.

Q Where Joe Cohen and you were the other day? A Yes, sir. So he did not like the idea of doing it up there, there was a whole lot of dust; he says, "I don't want to do it from here, because if I lay down on the floor I am liable to get full of dust and when I go downstairs the people will get wise", that he will be all full of dust.

Q Go ahead? A And then coming back, he seen the first floor by Charlie Hawks that there is windows coming towards Charlie Werner's, and he said "It would be a good thing from here; anybody coming up there". I says, "I don't know, I will have to find out."

Q (Handing) I show you People's Exhibit 18, and I show you on that photograph some windows up over Charlie Hawks' stand, and I ask you if those are the windows you refer to? A Yes, sir, right here (indicating); and they have pigeons up here too, and a lot of empty coops.

Q These windows look out on Loew avenue towards the north?

A Yes, sir, towards Charlie Werners.

Q And Charlie Werner's stand is across the way? A Across the street.

Q Now proceed. A And when he got near the window he says, "I think it will be good to do it from this window".

THE COURT: Indicating the second window?

THE WITNESS: The third or second window.

Q What did he say or what did you say? A I said, "It is up to

956-3034



you, I don't care how you do it, if you like to do it from here, go ahead and do it". He said, "Find out if anybody comes up here for anything." So I asked Joe Cohen and he said "They don't go up there." So the fellow stood there for the night like, and he put the rifle together, and he tried two shots--

BY THE COURT:

Q At what hour of the day? A It was getting dark like. And on Charlie Werner's stand was a little bench -- they made it themselves out of slats from the chicken coops; and he took a shot at the bench.

Q Was that across the street? A Yes, sir.

BY MR. O'MALLEY:

Q Were you there when he took those shots? A Yes, sir.

Q And did the rifle at that time have the Maxim silencer on? A Yes, sir.

Q Did it make any noises? A No.

Q Or smoke? A Nothing.

Q How many shots did he take out of the window? A Two shots. And he fired at the bench there at Charlie Werner's place, so Abe Graff stood alongside of this here bench -- he did not know anything. So he told me -- he say "Get something up here so that I can sleep."

Q Who told you this? A The gunman.

Q Told you what? A To get him something that he could lay on, and get him in the morning, that he did not want to go up

and down there.

Q Why was he going to sleep there that night? A To try and get him the next morning.

Q Get whom? A Baff.

Q Where would Baff be? A He used to pass through that street to get dinner or breakfast in a restaurant there -- he used to pass there lots of times.

Q Where was this restaurant? A In the avenue.

Q Where was Graff? A He was on the other side across the street, where the gunman shot the two shots.

Q Did you see Graf over there? A No, sir, I did not see him.

Q How do you know he was there? A Because when I went there I saw him, and I said, "The fellow took two shots at the bench". And he said, "Gee, I was alongside of it, he may have killed me."

Q Where was the bench? A In the stand. You see he shot slanty this way (indicating), from the window, at Charlie Werner's stand, and the bench was on the main floor and you could see it from the stairs where he shot at.

Q Do you say that when you came down you spoke to Abe Graff about the shots? A Yes, sir.

Q And did you see the bench? A Yes, sir.

Q Was Abe Graff there? A Yes, sir, I showed it to him. I said, "The fellow shot at this bench", and I showed him the two holes in the bench. There even was a mark on the floor like.

Q You spoke something about the gunman asking for something

to sleep on? A Yes, sir.

Q Tell us what he did, and what you did in regard to that?

A I spoke to Joe Cohen.

Q Where was he? A He was in Baedeker's saloon.

Q Was that after you came down out of Hawk's left? A Yes, sir, after I spoke to Abe Graff.

Q What did you say to Joe Cohen? A I told him the fellow was up there and he was figuring to do it from the window, that he wanted something to sleep on because he was going to stay there for over night. So he looked around and got the bag or overcoat--I don't know what.

BY THE COURT:

Q Cohen did--Joe Cohen did? A yes, sir. And we threw it up-- I did it myself; there is a little empty hall there where they put empty coops from downstairs.

BY MR. O'MALLEY:

Q Baedeker's saloon is on the corner there of Bloomfield Street and Thirteenth avenue? A Facing the river.

BY MR. O'MALLEY:

Q And did he leave there-- did Joe Cohen leave there?

A Yes, sir, to get some bags.

Q Do you know where he got the bag?

MR. MOSS: Objected to.

Q Did you see where he got the bags? A Yes, sir.

Q Where? A Near Feinstein's telephone booth.

Q When you saw those things thrown <sup>up</sup> ~~out~~ there, did you see the

gunman? A Yes, sir.

Q Did you see him take them? A Yes, sir.

Q You say Joe Cohen saw him too? A Yes, sir. It was dark already.

Q Have you told everything about what you said to Abe Graff when he came down there? A I do not recall any more.

Q Now, then, did you come to the market the next day?

A Yes, sir.

Q About what time did you come down? A About half past nine or ten o'clock or nine--around that time.

Q Where did you go when you got there? A Charlie Hawk's place. I wanted to find out if he was there.

Q Did you see anybody when you got there? A Yes, sir.

Q Whom did you see if you remember? A A fellow by the name of John that worked for Charlie Hawk.

Q After you saw John, did you see Joe Cohen? A Yes, sir.

Q Where did you see Joe Cohen? A In that street.

Q What talk did you have with him? A What this John told me.

Q Tell us what you said to Joe Cohen? A I told Joe Cohen that.

Q What was it? A This John told me that no more than he went upstairs to get the coat off, they seen a fellow up there, the fellow could not talk English, he was dressed up nice; but he let him go anyhow, see. That is what John told me. He told me that he had already told Joe Cohen about it.



Q I want the conversation had with Joe Cohen? A I told Joe Cohen that this fellow by the name of John told me that, that he finds this fellow up there and let him go.

Q Who said to let him go? A This fellow John said to let him go, because they were poor working fellows, that they went up there to take their coats off, and they let him go.

THE COURT: You told Joe that?

THE WITNESS: Yes, sir.

Q What did he say? A He said that "John told me that too". He said, "That is bad, they should be careful."

Q Anything else? A I told him the fellow thought that nobody would go up there.

Q Do you recall any other conversation you had with Joe Cohen at that time? A I don't recall it. I recall that this John told me--

Q No, Joe Cohen-- do you recall any other talk at this time with him? A No, sir, I do not.

Q Do you recall anything being said about the rifle? A I told him that the rifle was up there yet. He said, "Go up there and get it and give it to Abe Graff.

Q Did you afterwards go up over Hawks' stand? A Yes, sir.

Q And did you find the rifle? A Yes, sir, under the coop.

Q In what condition was it when you found it? A Together.

Q All together? A Yes, sir.

Q And what did you do with it? A Took it apart, and I put it in the bag, and I took it down and give it to Abe Graff.

Q Where was Abe Graff at this time? A At his stand.

Q What did you say to Abe Graff, if anything? A I said caught  
the fellow got ~~had~~ up there. He said, "That is bad--"

MR. MOSS: I do not like to object very much, but I think the witness should speak louder and slower. I fear the record will show testimony that I have not caught.

THE COURT: Speak as loud as you can and go slowly.

Q You were telling us about a talk you had with Abe Graff. Begin that again? A I told Abe Graff that the fellow was caught up there. He said, "That is bad". He said, "I will tell you what to do: You tell the fellow to come down here and do it from our loft, and nobody goes up there, I know that"-- because he was the manager like of that. I said, "I do not think he will come down again".

Q When you gave this Abe Graff this bag with the rifle in, do you know what he did with it? A No, sir.

Q Did you see the gunman again? A Yes, sir.

Q Where did you see him? A Uptown some place, in Harlem.

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

Q About how long was that before Baff was finally killed?

A About a month.

Q Now tell us what talk you had with the gunman when you saw him that night or the next day? A When I seen him he tell me the story--he said, "I thought that nobody was going to come up here, it is a fine thing, they caught me right in the act almost." So I told him what Abe Graff told me. I said,

"You don't need to go up there any more, you can go up to the left where this fellow is watching", that I knew him; I mentioned Abe Graff; and I says, "You can be sure that nobody goes up there."

MR. KOPPE: May I ask was this man who was up in the left one of the conspirators who took part in the conspiracy which ended in Raff's killing.

MR. OMALLEY: There is no question about it.

Q Did you mention Abe Graff by name? A Yes, sir.

Q When did you next go to the market? A The next day.

Q Did you see the gunman down there the next day? A Yes, sir.

Q What time? A It was about nine or ten o'clock in the morning.

Q Did you go with him or did you go alone? A I went down before him.

Q Did you have any talk with any one after you got there?

A I told Abe Graff that he was coming down.

Q After the gunman got there, tell me what occurred? A I went over to him and I told him to follow Abe Graff, to walk right in front of the stand, no more would he have seen Abe Graff upstairs he should follow him. So when he passed through there Abe Graff said, "Come on", and he went right after Abe Graff. They went upstairs. And after about ten minutes I went up, and I seen the three of them up there.

Q What is that? A I seen the three of them about ten

minutes after.

243

208

Q Who did you see when you got up over Werner's stand?

A Abe Graff, the gunman and the colored fellow.

BY THE COURT:

Q Who was the colored fellow? A Jones, the fellow that used to work for Werner.

MR. O'MALLEY: Dan Jones, come up here.

(A man approaches the rail.)

Q Is this the man you refer to as the colored man--Dan Jones?

A Yes, sir.

MR. O'MALLEY: May it appear on the record that the person named is Dan Jones.

THE COURT: Yes.

BY MR. O'MALLEY:

Q (Handing) I show you a rifle? A That is exactly the same thing.

Q (Handing) I show you an article, and ask you if that at all resembles the silencer that was on the rifle? A Yes, sir, it was about that long (indicating).

Q It was a little longer than that (indicating)? A Yes.

MR. MOSS: Do you say that is the same gun?

THE WITNESS: No, that is a brand new gun. The other one was used.

BY THE COURT:

Q Was it a gun like this? A Yes, sir, exactly the same. You loaded it through here (indicating).



Q Was it in all respects like this gun? A Yes, sir.

Q But this is not the gun? A No, sir.

MR. MOSS: I object to it.

THE COURT: It is only to show the character of the weapon.

BY MR. O'MALLEY:

Q You say it had an attachment like this (indicating)?

A Yes, sir.

Q Where did that attachment go? A Right on the point.

Q On the point like that (indicating)? A Yes, sir, screw it on.

Q So that the rifle you had was in three parts? A Yes, sir.

Q This stock came off (indicating)? A Yes, sir.

Q And the barrel came out? A Yes, sir.

Q And then there was this attachment (indicating)? A That comes off. I will get it off for you.

Q Very well, take it (handing)? A This here comes apart this way (indicating).

MR. O'MALLEY: May these be marked for identification?

(The rifle referred to is marked Exhibit No. 19 for Id.; and the silencer is marked Exhibit 20 for Id.)

Q Was the gun which you have been describing and which was brought down first to Charlie Hawks and then which you gave to Abe Gzaff, and afterwards saw up in Werner's loft, the same gun that you bought from Frank Reside? A Yes, sir.

Q And the one you have been testifying to all the time?

A Yes, sir.

Q Now, you have told us about going over to Jersey into a gun store there? A Yes, sir.

Q Is this the man that was the proprietor that you have mentioned (indicating)? A Yes, sir.

THE COURT: What is the name of that man?

MR. O'MALLEY: Theodore Moller. Now, I will have brought into the court room Joe Sorro and Frank Burke.

Q You have mentioned a man named Joe Sorro whom you say was a driver and was one of the men who set the bomb at Arverne?  
A Yes, sir.

Q Is this the man, Joe Sorro (indicating)? A Yes, sir.

MR. O'MALLEY: May it appear on the record that the man who appears at the rail is Joe Sorro?

THE COURT: Yes.

Q Is this the man that you have referred to as Frank Burke (indicating)? A Yes, sir, that is the man that had the argument with Joe Cohen about the money for the bomb.

THE COURT: What is his name?

THE WITNESS: Frank Burke.

Q Do you know this man (indicating)? A Yes, sir.

Q Is this the man you have been referring to as Giuseppe Zaffarone? A Yes, sir. And I see him with Ippolito Greco down at the market.

THE COURT: What is that last man's name?

MR. O'MALLEY: Joe Zaffarano.

Q You referred to a man known as Carmine DiPaolo, known as

"Fat"? A Yes, sir.

Q Is this the man you refer to (indicating)? A Yes, sir, but at that time he was not so fat. He was younger then.

MR. O'MALLEY: May it appear that the man who appears here is Carmine Di Paolo, referred to by this witness as "Fat".

Q The last two men that came in you say were men you saw down in West Washington Market with Ippolito Greco? A Yes, sir.

Q And the last man whom you call "Fat" is the man you saw down there with the skinny fellow named Russo? A Yes, sir.

Q And then there was the other fellow? A There was a little boy that was with Fat, taking snuff.

MR. O'MALLEY: I introduce in evidence a photograph showing a view of the northerly side of Loew avenue looking westerly from Lawton and Loew avenues, and showing the buildings or stands on the northerly side of Loew avenue through to 13th avenue.

(Admitted and marked Exhibit No. 21.)

MR. O'MALLEY: And I call the jury's attention to the stand of Hugo Josephy and Sons, right on the corner, and it will be conceded of course that the next stand to that is that of Charles Werner.

Q You say when you got up over Werner's loft you found the gunman and Abe Graff and Jones the colored man there?

A Yes, sir.

Q How did you get up to the Werner loft? A First you go up one flight, a regular stairs, and against the wall there

h  
is an iron ladder.

243

213

Q And that takes you up into the loft? A Yes, sir.

Q What did you see when you got up into the loft? A I seen them that they were trying to dig a hole on the side of the street like.

Q Did you see the rifle when you got up there? A Yes, sir.

Q What was being done with the rifle? A It was being put together.

Q And who had it? A Abe Graff in his hand.

Q Now, tell us everything that you observed up there in the loft after you got up there? A I seen that they wanted to drill a hole on the side near the water gutter, drill a hole to look down to the street.

BY THE COURT:

Q A hole through what? A Through the zinc gutter, the water gutter.

Q Who was up there in the loft at that time? A Abe Graff, the gunman, the colored fellow and me.

BY MR. O'MALLEY:

Q At what point in the loft did you see them trying to drill this hole? A Near the partition, near the market. No more you go up you turn to your left, you see ~~this~~ it is on your left side all the way to the back.

Q You go away to the back of the loft? A Yes, sir.

Q When you go to the back of the loft, is there a wall there?

A Yes, sir.



Q What sort of a wall? A A brick wall.

Q How near the brick wall was this place where you say they were working on the zinc gutter? A It may be two or three feet--three feet.

MR. KOPP: What does the witness mean by "they".

Q Who was working on the zinc gutter? A The colored fellow, the gunman, and I think Abe Graff too -- I aint sure, but I know he was getting the tools for them.

THE COURT: He has given the names of those who were there.

Q Describe how that roof comes down to the floor at that point? A The same as at Charlie Hawk's.

Q That is, it comes down close to the floor? A Yes, sir, this way (indicating).

Q Go ahead and tell what else you saw up there? A Abe Graff tried a couple of shots on a wooden pole.

THE COURT: He shot at a pole, you say?

THE WITNESS: Yes, sir.

Q Whereabouts was that pole you speak of, in the loft?

A Near where they were going to drill the hole like.

THE COURT: The pole in the loft?

THE WITNESS: Yes, sir. It was holding the roof like.

Q What was it-- a support for the roof, a scantling?

A Yes, sir. And he told me, "It is fine; gee, you don't hear no noise or see any smoke."

MR. O'MALLEY: I offer in evidence a diagram showing the floor plan of the loft over the stand of Charles Werner and

also over the adjoining stand to the west, of Jacobs Brothers, and also showing a cross-section of the supports of the roof.

(Admitted and marked Exhibit No. 23.)

Q I understand you to say that this place where they were working on the zinc gutter, was down in the extreme corner of the loft, right next to the brick wall? A Yes, sir.

Q On the southerly side of the loft? A Yes, sir.

Q And do you know what stand or stands were across from that point where they were working on the zinc? A If I aint mistaken, I know he took a shot or two on the iron pole at Sol Frankel's  
~~Sol Frankel's~~.

Q Who did? A The gunman.

Sol Frankel's

Q And ~~Sol Frankel's~~ stands <sup>is</sup> on the southerly side of Leew avenue? A Yes, sir, it comes slanty this way (indicating); you don't go direct from the hallway.

Q Now then tell us what else occurred up there that day while you were there. Were you there all day? A Yes, sir, until it got dark.

Q Were you up in the loft all day yourself? A No, I went up there may be three or four times; I used to go up there and go down again.

Q Every time you went up did you see the gunman up there?

A Yes, sir.

Q Did he go down at any time? A No. in the evening he came down when it got dark.

Q Did Abe Graff come up or down? A Yes, sir.

Q And did Jones go up and down? A Yes, sir.

Q Now will you tell us any talk you had with Abe Graff that day? A He told me that the gunman ought to have something to eat. That was about twelve or one o'clock. He said "I am going to send the colored man, Jones, to get some sandwiches for him". I don't know whether he did or not.

THE COURT: Was there one gunman or two gunmen there?

THE WITNESS: One.

Q How many times did you see Jones up there that day that you remember? A Every time that I went there, and sometimes I used to see him downstairs, and sometimes upstairs.

Q Do you recall any other talk you had with Abe Graff that day? A Yes, sir, I told him "Won't he, the colored fellow, get wise". He says, "He is a good fellow anyhow"; "I told him", he says, "that we were drilling that hole through there to watch somebody if he goes and buys stuff in <sup>Sol Frankel's</sup> ~~South Franklin~~".

Q This is something that Abe Graff said to you as to what he told the colored fellow? A Yes, sir.

Q Did you say anything else about the colored man? A He told me that he was in jail two or three times, and that once <sup>stealing</sup> he got him out of trouble for ~~making~~ something in the hallway.

Q He told you this at that time? A Yes, sir.

Q Did you see the place afterwards where you say they were working on the hole? A Yes, sir.

Q Describe it to the jury as nearly as you can remember it? A This (indicating) is the partition. That is the

street where Baff was supposed to pass (indicating).  
Charlie Werner's is on this side (indicating), and the hole they were drilling is where the loft gets through by Charlie Werner's, on the zinc gutter where the water passes when it rains.

Q That is, the leader or water pipe comes down — A The water trough is right there, the gutter, and then there is a pipe goes in the street that all the water from the roof goes in the street like.

THE COURT: A pipe goes down from the gutter. Is that it?

THE WITNESS: Yes, sir, from the roof to the street.

Q What did you observe about this point where the pipe goes through the gutter, before any work was done?

THE COURT: How was it before any work was done?

THE WITNESS: Only the zinc was there.

Q Was there any hole there before they began to work?

A Very little. You could see very little daylight.

Q Could you see the opening after they got through?

A Yes, sir.

Q What could you see then? A You could see across the street.

BY THE COURT: How big was it? A Oh, about that big (indicating).

Q Four or five inches in diameter. Hold up your hand again. How big was the hole? A About that big. It may be smaller. I have no measurement in my hand.



Q Two or three inches? A Over two inches. It may be two or three inches.

MR. KOPP: we have the silencer here, your Honor, and we would like to know if it would go through that.

THE COURT: The Court has said that he indicated two or three inches in diameter.

THE WITNESS: Maybe a little more.

THE COURT: Very well.

MR. O'MALLEY: I ask to have this marked for identification (indicating)?

(Marked Exhibit 23 for Id.)

BY MR. O'MALLEY:

Q (Handing) I show you a photograph and I ask you if that fairly represents that corner next to the brick wall where you saw that hole? A Yes, sir.

BY THE COURT:

Q As it was after the hole was made? A I think it was round looking.

Q As it was after the hole was made? A It was round looking.

Q This shows the hole, does it? A It does not show round, you know.

Q Is that the place where the hole was made? A Yes, sir, that is the place.

BY MR. O'MALLEY:

Q Did you notice anything particularly about the joint there that day (indicating)? A It was sawed.

Q Did you see the joist after it was sawed? A Yes, sir.

Q And does that picture show the joist as you remember it that day? A Yes, sir, right here (indicating). There were all them big coops there (indicating). They had a tough job to get them all out of there, too.

MR. O'MALLEY: I offer in evidence here a photograph showing the entrance to the loft over the stand of Charles Werner on Loew avenue.

(Admitted and marked Exhibit 24)

Q (Handing) I show you Exhibit 24, which is a photograph of the entrance to the loft, and I ask you if that is the ladder along the wall there that you referred to? A Yes, sir.

Q That is, that shows the view you have of the ladder when you get up into the loft? A Yes, sir, and with that rope (indicating) they get the empty coops up and down.

Q And that ladder that you see up there extending (indicating) runs down to the office floor? A Yes, sir.

Q And after you get to the end of the ladder then you go down to the first floor on the stairway? A Yes, sir.

MR. O'MALLEY: I offer in evidence a view of the interior of the loft over Charles Werner's stand, taken at a point at about 5 feet south of the entrance to the loft looking toward the westerly portion of the loft.

(Admitted and marked Exhibit 25)

MR. O'MALLEY: I offer in evidence another photograph of the same loft which shows the location of the truss at the

westerly end of the loft, taken from a point at about five feet west of the entrance to the loft.

(Admitted and marked Exhibit 26)

BY MR. O'MALLEY:

Q Can you tell us about where this scantling or truss was in the loft at which the shots were taken. I think you told us near the brick wall? A Yes, sir.

Q At the rear of the loft? A Yes, sir.

Q (Handing) I show you Exhibit 26 in evidence and ask you if the scantling that you refer to is that towards the end of the loft near where the men are standing there (indicating)? A Yes, sir. They took the shots very near the corner, near the entrance from where the stairs come up there (indicating).

Q Tell me whether at that time when you were up there on that day were there coops there? A Yes, sir.

Q And how many coops were there? A Oh, half of it was full.

Q Were the coops -- A The coops were taken out of there, removed, some of them downstairs and some of them they laid them upstairs.

Q On that day? A Yes, sir.

Q You removed some of the coops? A Yes, sir.

Q Who? A The colored fellow, Abe Graff and the gun man.

Q At the time these shoots were fired was there a view through from the entrance to the loft towards the rear in this way (indicating)? A Yes, sir.

Q Looking towards the west? A Yes, sir.

MR. MOSS: I suppose it is not claimed that this picture shows the condition of the place at the time. The coops were removed to allow the photographer to make the picture I presume.

MR. O'MALLEY: That is true.

Q Did I understand your testimony to be that on that date you did adjust the coops? A They made a way so that anyone would pass up and down the stairs -- no more than they had to do the thing they had to make a way to get a way; they laid the coops on the side.

Q Do you recall seeing a scantling up there similar to this (indicating)? A Yes, sir.

BY THE COURT:

Q The one that Abe Graff shot at? A Yes, sir.

Q Did it look like this (indicating)? A Yes, sir.

BY MR. O'MALLEY:

Q Were there any marks on it that you remember at that time? A No.

MR. O'MALLEY: I will have this marked for identification.  
(Marked Exhibit 27 for Id.)

MR. KOPP: Might we have on the record at this time as to the date when this beam was removed?

THE COURT: They will have to show that before it is offered in evidence. It is now simply identified by the witness. I do not suppose the witness knows when it was.

MR. KOPP: But Mr. O'Malley does. I will take his word for it.



Q Did you yourself have any talk with Dan Jones up there that day? A No, sir.

Q Did you speak to the gun man? A Yes, sir.

Q What talk did you have with him? A He told me -- I seen him many times, every time I used to go up there almost--

BY THE COURT:

Q That day what did you say to him and what did he say to you? A He said he was going to lay there to get him; he was laying down on his stomach on the floor.

BY MR. O'MALLEY:

Q And did you see whether or not he had the gun with him?

A Yes, sir, he had the gun with him there all the time pointing out.

BY THE COURT:

Q Pointing out where? A To the sidewalk across the street.

Q Through this hole? A Yes, sir.

BY MR. O'MALLEY:

Q Did you see Abe Graff up there at any time the gun man was in this position that you have described? A Yes, sir. x

Q Did you have any talk with Abe Graff that you remember?

A I do not recall any.

Q What was the last time that day that you were up there that you recall -- how late? A In the afternoon, after three or four o'clock; I do not recall; I was there in the afternoon late.

Q And did you see Abe Graff afterwards come down out of the loft, come downstairs? A Yes, sir.

Q Where did you see him? A Downstairs. That is the way he used to do -- go upstairs and come down; he used to do a little selling there once in a while, weighing chickens; he could not be away from the stand all the time.

Q Now then, did you see the gun man come down out of there that day? A No, sir.

Q Did you have any talk with Abe Graff down there after you came down? A Yes, sir, I told him that the fellow tried his best, he was up there the whole day, he said that Baff did not pass there.

Q Did you see anybody besides Abe Graff when you came down? A William Simon.

Q Where was he? A He was right there at Werner's stand. He said "Tony, didn't he do anything?" I said "He was there the whole day and Baff did not pass through there."

BY THE COURT:

Q Who asked you that? A Willie Simon. So I told him he was up there all the whole day to try to get Baff, and he did not pass there, and he said "Shit, he passed through there a lot of times". I said "I don't know".

Q Where was he at that time? A Right near the sidewalk of Charlie Werner's.

Q Anybody else there with him at the time? A No, sir.

Q You say you did not see the gun man come down out of the loft that day. Do you know what time he did come down?

A It was dark already.

Q What time did you leave the market that day? A Maybe it was an hour later -- it got dark. I do not recall the hour. It was late. There was very few people down in the market.

Q And where did you go? A I went home.

Q Did you see the gun man there? A I don't recall if I see him the same night or the next day.

Q Now, what was the next thing that occurred, that you recall? A They did not want to come down and do it that way no more.

Q Did you have a talk with them? A Yes, sir.

Q What did he say? A He said he was laying there the whole day; he said "What is the use of coming down and laying there another day, we do not think that he will able to pass through there".

Q What is the next thing that occurred? A They were coming down with the automobile after a while, they told me.

BY THE COURT:

Q Who said it? A One of the gun men.

Q What did he say? A He said that they figured to go down again with the automobile.

BY MR. O'MALLEY:

Q Now, in the meantime did you have any talk with any of the defendants? A Yes, sir.

Q Was there any lapse of time between the time the gun men had been up in this loft you have told us about and the time

they did come down in the automobile?

THE COURT: How much time was there between the time when the gun man was up in the loft and the time when they said they would come down with the automobile?

THE WITNESS: I believe it passed four or five days.

Q Did you have any talk with any of the defendants in the meantime? A Yes, sir, I told them all about it.

Q Who? A Joe Cohen, Willie Simon, Louis Cohen.

Q What talk did you have with Joe Cohen about it? A I told him that the fellow was laying there the whole day and Baff did not pass there. He was not around you know --

Q What did he say when you told him that? A That they should try the best to get him.

THE COURT: To whom did you tell that?

THE WITNESS: To Joe Cohen, Louis Cohen and Willie Simon.

Q Did you have any talk with Abe Graff after this young man told you he was not coming down any more to that loft?

A I guess I did but I do not recall.

Q Did you have any other talk with any other person that you remember now? A Louis Cohen.

Q Where did you talk with Louis Cohen? A Up town.

Q Will you tell us what talk you had with Louis Cohen?

A I used to tell him all about it; I said the fellows would come down with the wagon, that they would come down with the automobile; and I explained to him how they were to do it.

And he said "Through him we cannot make a living, no more

3744



than he gets killed the business will be good for everybody."

Q Do you ever recall having seen Louis Cohen down in the market? A Yes, sir.

Q Did you have any talk with him down there? A Once he said "Tony, I don't see you for a long time". That was after I sold the business. He said "I thought you went on the other side".

Q That was between the time you sold your business and the time Baff was killed? A Yes, sir.

Q You say he said to you that he thought you had gone to the other side? A Yes, sir.

Q He had not seen you for a long while? A Yes, sir. Maybe it went for a week -- because I used to go to Brooklyn to get the permit for the other market. Joe Cohen told me to look for the permit for the market up there, that he would back me up. I used to go out there with the Notary to get the signatures from the owners.

Q Do you recall anything else that occurred between you and Louis Cohen down at the market? A Not now.

Q Do you remember some day that he said something about a cup of coffee? A Yes, he said "Come, Tony, we will have a cup of coffee". I said "No, thanks".

Q At the time that that was said do you recall that he said anything about the killing of Baff? A I do not recall it now.

Q Now, what was the next talk you had with the two gun men in regard to the plans for killing Raff? A That they were going to come down with the automobile.

Q What talk did you have with them? A I told them that they wanted to have the job done.

Q Tell us everything you said? A I said "Why don't you come down and do it" -- because they lost a little time, see. They said "We have to get the right fellow to drive the automobile, we cannot trust everybody; and no more than we get the arrangements and get the right fellow, we come down."

Q Did you have any talk with any of the defendants after you talked with the two gun men about the automobile?

A Yes, sir, I told them they were going to come down again with the automobile.

THE COURT: Who did you tell?

THE WITNESS: Joe Cohen, Abe Graff, Chicken Moe, David Jacobs, Willie Simon and Louis Cohen.

Q What occurred after that -- after they said they were going to try again with the automobile?

THE COURT: What was said by whom?

Q Did you see the gun men after they told you they would try again with the automobile? A Yes, sir.

Q Where did you see them? A In Harlem.

Q Did you see them again down in the market? A Yes, sir, I seen them again on 10th Avenue where this wholesale butcher

is there.

Q On 10th avenue? A Yes, sir.

Q Do you mean by "10th avenue" the street where the railroad car tracks run? A Yes, sir.

Q Is there a wholesale butchers on that street? A Yes, sir, in 10th avenue there is a lot of them.

Q When you say "10th avenue" will you point it out on Exhibit 3 (handing). You see 10th avenue comes down from 14th Street there (indicating)? A Yes, sir.

Q This is West Washington Market right in here (indicating)? A Yes, sir.

Q Whereabouts did you see the gun men on 10th avenue? A This is the avenue there (indicating).

THE COURT: Pointing out what?

Q You are pointing on West <sup>Street</sup> ~~corner~~ there (indicating)?

A No more than you go down to Charlie Hawk's and Charlie Werener's market, walking down on the right hand side, on 10th avenue.

BY THE COURT:

Q The question is where did you see those two gun men? A Right on that corner.

Q Corner of what? A 10th avenue and the street going down Charlie Werner's.

BY MR. O'MALLEY:

Q Then you saw them on the corner of 10th avenue and Loew avenue? A Yes, sir.

Q. And you are ~~anybody~~ ~~else~~ with them at the time? A I do not recall.

243

228

Q Well, did you have any talk with them? A Yes, sir.

Q What talk did you have with them? A They were down there and they looked the ground over with the automobile.

Q Did they say anything about the automobile? A No. I knew that they were coming down with the automobile, and they did not tell me anything about the automobile.

Q Did you see any chauffeur there that day? A No.

Q Where did you see the two men. Did you see them after that any place? A Yes, sir, I saw them near Charlie Werner's corner.

Q Were you talking with them? A Yes, sir, but not long-maybe two or three minutes.

Q Did you talk with Abe Graff that day? A Yes, sir.



Q Tell us what conversation you had with Abe Graff? A I told Abe Graff they were down looking the ground over because they thought they were going to do it with the automobile. He said they should not be afraid, they should give it to him right here.

THE COURT: Who said that?

THE WITNESS: Abe Graff.

Q Do you recall talking with Moe Rosenstein that day? A I do not recall. He used to be all around.

Q Did you see Moe Rosenstein that day, if you remember?

A No, sir, I do not recall.

Q How long were they in the market that day? A It might be about an hour.

Q About how long was that before November 24th -- the day Baff was killed? A About four or five days.

Q Four or five days before? A Yes, sir.

Q You recall Baff was killed on Tuesday, November 24th?

A Yes, sir.

Q So that you place this about a week before Baff was killed, do you? A Yes, sir.

Q Did you see the gunmen down there again that week, or didn't you see them again until the next week? A I seen them up in Harlem somewhere.

Q Did you have a talk with them? A That was the last time I had a talk with them.

Q What date was that? A I could not tell you the date.

Q How long before <sup>the shooting?</sup> A Four or five days.

Q Was it Saturday, or Sunday or Tuesday? A May be it was Friday or Saturday.

Q And did you see Abe Graff after that? A Yes, sir.

Q Where was Abe Graff? A In Werner's stand.

Q Did you see him any other place besides West Washington Market? A I do not recall.

Q Do you recall seeing him up in Harlem? A Yes, sir, he came there many times; he came there in the saloon.

Q What saloon? A In the 107th street saloon.

Q Did you ever see him in the 107th street saloon at a time anybody else was there? A He used to come up there all alone, but there were other people there.

MR. KOPP: I object to this on the ground that it is irresponsible. The question was, did he see anybody in the saloon when Graff was there.

Q Did you ever see Abe Graff outside of the market at any time, when these gunmen were present? A In the corner where Charlie's Werner's stand is.

Q Did you see the gunmen on the Sunday before the murder?  
A Yes, sir, and Abe Graff was there and he had some <sup>faber</sup> beans.

Q How long was Abe Graff there? A May be an hour and a half or two hours.

Q Where was that? A In the back of the saloon-- Sunday afternoon about three or four o'clock.

Q The Sunday before Raff was killed? A Yes, sir.

Q And these two gunmen were there too? A Yes, sir.

BY MR. O'MALLEY:

Q What talk did you hear between them? A He came up there to give the fellows courage to come down, that they should not be afraid.

MR. MOSS: I move to strike that out.

THE COURT: Strike out about giving them courage.

BY THE COURT:

Q Tell what he said? A "Why don't you come down, you are after him so many times, come down there, that is the best place to give it to him, now Thanksgiving is coming on, and it will be a fine chance, to give it to him down there." So the fellows had their minds made up to go with the automobile, and they did come down there with the automobile on Tuesday.

THE COURT: Tell us all that was said in the saloon there.

BY MR. O'MALLEY:

Q Have you told us all that was said there that day between you and Abe Graff and the two gunmen? A I do not recall the whole thing.

THE COURT: What did the gunmen say after Graff spoke?

THE WITNESS: "All right, we will come down, we will come with the automobile".

Q Did they say who was going to drive the car? A No.

Q Did they say what time on Tuesday they would come down?

A The afternoon like.

Q Did you have another talk with Abe Graff about plans on Tuesday? A I do not recall. I know we took a walk on some other street in Harlem.

THE COURT: What day?

THE WITNESS: That was in some other street in the afternoon, we took a walk after we left the saloon-- me, Abe Graff and the two gunmen. That was about five o'clock.

Q And how long were you together? A Oh, about four or five hours; four hours.

Q That day? A Yes, sir.

Q You were about an hour and a half in the saloon? A Yes.

Q Was there anything else said that you now recall between the four of you in regard to the plans on Tuesday? A I recall that they remained, that they were going to come down on Tuesday afternoon.

THE COURT: What do you mean by "remained"?

THE WITNESS: That they had already given the date, one to each other--they said, "All right, we will be there Tuesday afternoon."

BY MR. O'MALLEY:

Q Do you recall whether or not you went to the market on Monday? A Yes, sir.

Q Who did you see there? A Abe Graff, and I told him he should hang around, that the fellows were coming down there and he should tell Chicken Moe to be around.

424  
324  
CASE 1-324



THE COURT: This you say was on Monday?

THE WITNESS: Yes, sir. Let us get the thing s here. There is no bull here. It is all straight. There is no reason for them to laugh.

THE COURT: Never mind that.

Q What else did you want to say? A Abe Graff was up there on Sunday afternoon, and they had been talming, the two gunmen and me, that they should come down on Tuesday afternoon to kill Baff on Tuesday afternoon. That is what it was.

Q And then what about Monday? A Monday I went down to speak to Abe Graff, that they were to come down there with the automobile. And the next day, Tuesday, I come down there, and I said, "Keep Chicken Moe prepared, that he should be on the watch and be prepared." That is the whole story.

Q Do you recall whether or not you saw Joe Cohen either on Saturday before the murder or on Monday or Tuesday?

A It was may be Saturday or Monday,--one of the two.

Q You are not clear on it? A No.

Q Do you recall whether or not you ever had any talk with Joe Cohen about the plan of the gun men to come down on Tuesday? A Yes, sir.

Q Do you recall what was said about it? A I told him they were going to come down with the automobile. And he said, "All right, Tony, I will not be around." He was not around on that Tuesday. So him or Willie Simons or none of them was around. May be they were around in the morning, but

in the afternoon nobody was around.

Q You did not see Joe or Jake Cohen or Willie Simons or any of them around? A No, I did not see them,--only Abe Graff and Chicken Moe and the two gunmen and myself and other people.

Q Did you have any talk with Dave Jacobs on the week preceding the murder? A At that time I did not see Jacobs. I was out of business then.

Q Now on the day of the murder what time did you leave Harlem to go down? A About eleven o'clock in the morning--ten or eleven o'clock.

Q Do you recall whether or not you had seen the gunmen on that day? A I do not recall.

Q Now, will you tell us what occurred that day after you got to the West Washington Market? A Yes, sir. I was hanging around in the market the same as them, and I went down with the excuse to buy turkeys.

Q Where did you go when you first got there? A To Charlie Werner's, where Abe Graff worked.

THE COURT: Abe Graff worked there?

THE WITNESS: Yes, sir.

Q Now, go ahead? A And he knew all about it, that the boys was coming down.

MR. MOSE: I object to that.

THE COURT: Strike it out.

Q Tell what you did and said? A I went in there and said, "Hello", and he said, "Hello, Tony."

THE COURT: Who said "Hello" to you?

THE WITNESS: Abe Graff.

Q Proceed now. A So we had talk about the fellows that were coming down. He said, "All right, Tony, I will tell Chicken Moe". So in the afternoon about two or three o'clock, Chicken Moe was there, and there were detectives buying turkeys for the holidays down in the market. So Chicken Moe got wise that there was a lot of detectives buying turkeys, and he came over and told me that to tell the two fellows not to do anything in case they come down, because there is a lot of detectives around. So when the fellows came down, he told me -- Abe Graff-- to tell them to be careful because there were detectives around.

THE COURT: Who said to be careful?

THE WITNESS: Chicken Moe told Abe Graff to be careful. And Abe Graff told me to tell the two gunmen to be careful not to do anything because there were detectives around. And about half past four they came down, and I seen them, and I told them to be careful because there is detectives around. They said "all right", and they started to walk around the market.

BY MR. O'MALLEY:

Q Where did you see them walk? A I seen them around Charlie Hawk's, around the corner, around the block like.

Q Do you mean Loew avenue or Lawton avenue? A Yes, sir.

Q Both? A Yes, sir.

Q Where in the market that day did you see Moe <sup>Rosenstein?</sup> turkeys

A Across the street by Charlie Hawk's. He was putting ~~the~~ <sup>the</sup> turkeys in a bag.

Q Now will you go ahead and tell what took place? A Yes, sir. So about half past four or five o'clock two gunmen came around, and I told them they should be careful, and they walked around. So in the same time I told Abe Graff when he would see Raff all alone like, that it would be a chance for the fellows, he should go around and tell them. He said, "All right, Tony." Chicken Moe told me that he will give the gunmen a sign when to go ahead-- a signal with his hat.

THE COURT: Graff told you that?

THE WITNESS: No, Chicken Moe said that.

Q Now, proceed. What did Graff say about it? A He said, "All right, I will try to take Raff out through the telephone." He said, "I will call him out through the telephone." So that that is the way it remained, and it got dark, and the fellows came right over to Charlie Werner's place, and Chicken Moe and Graff and I was there myself; and so no more than the two fellows they went there, Chicken Moe and Abe Graff started to go towards Raff's place, and I went into Charlie Hawk's place, in the office. I did not see no shoot.

Q You went into Charlie Hawk's stand? A Yes, sir, in the office.

Q You said something about that Abe Graff said he would telephone? A Yes, sir.

3244



Q Do you know whether or not he did telephone? A He did telephone.

Q Did you see him? A No, I did not. He said he was going to call him out by the telephone.

BY THE COURT:

Q Call him out from where? A From his business place, by telephone.

Q And how long was that before the shooting occurred? A A few minutes-- may be five or ten minutes.

MR. KOPP: I understood the witness to say that he would call Baff out from Baff's place of business?

THE COURT: Yes, through the telephone. Graff said that he would call Baff from his, Baff's, place of business.

MR. KOPP: But it is not understood that Graff told him that he would use the telephone in his place of business.

THE COURT: No.

Q You say you went into Charlie Hawk's stand? A Yes, sir.

Q Who was in there when you went in? A The bookkeeper was there.

Q Did he go into the office? A Yes, sir.

Q Who was the bookkeeper? A I do not recall his name.

Q Was it Charles Thatcher, a member of the firm? A Yes, sir, a gray haired man.

Q A tall man? A Yes, sir, a man with gray hair.

I went in there and stood there and I said, "Can I warm myself up". He had a stove up and he said, "Come on in Tony."

Q How long were you in there? A I do not think I was in there eight or ten minutes.

Q Did you hear anything while you were there? A This book-keeper heard something like shots.

Q Did you hear anything? A No, sir, I did not.

Q Did you hear anything? A No.

BY THE COURT:

Q How soon after that did you hear about the shooting?

A About eight or ten minutes after that that I went into the office, because Abe Graff and Chicken Moe told me.

Q What did they tell you? A They were coming from Baff's place to Charlie Werner's place. So from the window where I was I saw Chicken Moe and Abe Graff coming over.

BY MR. O'MALLEY:

Q In which direction were they going when you saw them?

A Towards Charlie Werner's.

Q What did you do? A No more than I see them from the window I went out, and I went to meet them in the office in front of Charlie Werner's; and Chicken Moe said, "Ah, shit, they were too slow, I had to tell them 'yams'".

BY THE COURT:

Q Tell them what? A That is a word meaning to go ahead. He meant that it was to give the fellows courage to pull the trick like. And he said "they shot him in the shoulder, that bastard won't die".

Q Where was Abe Graff then? A Right present.

Q What did he say? A We did not have much talk. He said, "Gee, I want to get away". Chicken Moe said to give him the turkeys and put them in the bag. Chicken Moe said it to Abe Graff-- to put the turkey in the paper bag and give it to me, so that I shall come out of the market and no one shall get suspicions on me. And so that is what I did. And right there was present Louis Werner's son in law--

Q Eddie Bluzenkranz? A Yes, sir.

Q Was he there in the market at that time? A Right at present when he gave me the bag. He did not say nothing at all. So no more than I got it, I went home, and I did not come down in the market any more.

Q Did you pay any money for the turkey? A No.

Q How soon after you met Abe Graff and Moe Rosenstein there after the shooting, did you leave the market? A Right away,-- may be three or four or five minutes--no longer.

Q And did you take this bag out of the market? A Yes, sir.

Q As you were going out did you see anybody? A I seen a truck coming into the market loaded with chickens.

Q Who was on it? A I don't know. I think it was Joe Cohen was there, but I am not sure. It was dark.

Q Now, where did you go? A I went down 14th street and I took the car to Third avenue, and I took the express and I went right home.

Q What express? A 106th street.

Q The subway or Third avenue? A Third avenue.

Q And you got off at 106th street up in Harlem? A Yes.

Q Where did you go? A I went home.

Q How long did you go there-- how long did you stay there?

A Not long, a few minutes; and I went right down.

THE COURT: Down where?

THE WITNESS: Down the street.

Q Who did you see on the street? A I did not see on the street nobody.

BY THE COURT:

Q Did you meet anybody? A I met two gunmen and they told me they wanted to have some money to paint up the automobile.

Q These same two gunmen? A Yes, sir.

Q Where did you see them? A In Harlem.

Q Whereabouts? A I refuse to answer that question.

Q Don't you know where you saw them? A Yes, sir, but I refuse to answer the question.

Q Why? A I know the reason why.

Q Tell me the reason why? A No, sir.

Q Why won't you answer? A I cannot answer.

Q You cannot answer? A I cannot answer.

Q Do you know where? A Yes, sir, I know, but I don't want to answer that question.

Q Why can't you answer it? A Because I refuse to answer.

Q Why do you refuse. Have you some reason? A Yes, sir, but I cannot tell you the reason either. I know the reason why.

Q What is the reason? A If I tell you the reason I will



tell you the whole thing.

BY MR. O'MALLEY:

Q Did you talk with them? A Yes, sir.

Q What talk did you have with them?

MR. MOSS: I object. If the witness won't answer the Court's question I object.

THE COURT: The objection is overruled. We will see about that later.

A I seen them and they said, "Tony, get busy, get some money for us; somebody has seen the car; may be they get wise to the color, we want to get the automobile painted, so get some money."

Q Was there anything else said there that you recall?

A Yes, sir.

Q What was it? A "Now, hurry up; we want that money to night, because we are going to get it painted tonight." I says, "Where am I going to go." They said to go in 110th street to Raff's cousin.

Q Was there anything said about a revolver? A Yes, sir. That they dropped the gun from the automobile.

THE COURT: Who said that?

THE WITNESS: The gun men.

Q Did they say where they dropped it? A No, sir, they told me no more than they were on the automobile they dropped the gun, they gave the policeman word that they could not find it, that they would not be able to trace it.

BY THE COURT:

Q Did they say they had thrown it away or dropped it accidentally? A They had thrown it away, may be they had dropped it or thrown it away.

BY MR. O'MALLEY:

Q Something was said about going to 110th street? A Yes, they told me, "You go to 110th street and get some money, we need at least \$30 or \$35 right away."

Q Where did you go? A Louis Cohen.

Q You went to the place of Simon & Cohen on 110th street?  
A Yes, sir.

Q When you got there whom did you see there? A Him and all his work people. They were ready to close up like.

Q Did you see Louis Cohen? A Yes, sir.

Q Did you have any talk with him? A No more than to say "Good evening", and the telephone rang. -- I do not know who called him up, and they told him that Baff was killed, that was his cousin, he knew all about it, you know.

Q What talk did you have with him after he stepped away from the telephone? A I went in there with the excuse to buy more turkeys. I told him I was in the market myself about an hour and a half ago, and I did not know anything, because there was a lot of people there. So I wanted to speak to him, and he give me a look that I should not. So I went away.

Q Was there anything said about your coming back? A I

CASE 3244

told him that I wanted to get some turkeys. And he said, "Tony, all the turkeys I had I sold them to the butchers; tomorrow morning I expect a load, you come in tomorrow morning and get them, pick them out yourself."

Q Did you see him the next day? A Yes, sir.

Q Where? A In his own market.

Q What time did you see him? A Between nine and ten o'clock.

Q And what talk did you have with him? A I told him that I wanted the gunmen--that they wanted to have some money to paint the automobile; I got \$35 off somebody else that night.

Q Tell the talk with Louis Cohen? A I told him that the fellows thought that somebody had seen the automobile and they needed it painted, they wanted some money.

Q And what did he say? A He said, "I don't know nothing, I don't want to know nothing, you go way from me." I says, "That is a fine thing, after the thing is done, you don't want to know me or know anybody; you speak to Joe Cohen". So I  
Motuffsky  
went away and I did not know what to do. Already ~~Motuffsky~~  
brothers, one of them, told me that he knew about this.

Q Who was that--Carl ~~Motuffsky~~? A Yes, sir.

Q Don't tell us what he said to you down in the market.

~~He~~ But did you see Carl ~~Motuffsky~~? A Yes, sir.

Q When? A The next day in the morning.

Q Where did you see him? A In his own market, in the Bronx.

Q Did you have a talk with Carl ~~Motuffsky~~ the next day?

MR. MOSS: Objected to.

THE COURT: Objection overruled.

MR. MOSS: Exception.

A Yes, sir.

Q What talk did you have with him?

MR. MOSS: Objected to as incompetent.

MR. O'MALLEY: I won't press it, your Honor, if there is objections. The question is withdrawn.

Q When did you next see the gunmen?

MR. O'MALLEY:

~~THE COURT~~: I think it is competent to show what this witness said to this man or any other person -- well, leave it out, the question is withdrawn.

Q When did you next see the gunmen? A The same night.

Q Did you have a talk with them? A Yes, sir.

Q What talk did you have with them? A Do you mean the same night that Baff was killed or--

Q No, the next night. I understood you to say you saw Motuffsky the next day--Wednesday? A Yes, sir.

Q And you saw the gunmen that day? A Yes, sir.

Q Where did you see them? A In Harlem.

Q What talk did you have with them? A They told me, "Tony, get busy".

BY THE COURT:

Q Well, did you? A Yes, sir.

BY MR. O'MALLEY

Q Proceed. A They told me "Get busy and get the money because now the job was done." They read it in the paper. They said, "I thought the money was going to be right off your

3244  
A-3244



drawer and you had the money in your pocket, and now we can't get it. " "Now," he says, "you get busy and get it."

I says, "I don't know how to get near them,"-- meaning Joe Cohen. He said, "Don't you know where he lives." I says, "I know where he lives in Brooklyn". He said, "I will tell you what you do, you call him up on the telephone--"

MR. MOSS: I object to any further statement of this conversation with the gunmen, by reason of the fact that the murder had occurred and the conspiracy was <sup>concluded</sup> ~~ended~~.

THE COURT: Objection overruled.

MR. MOSS: Exception.

Q They mentioned the telephone? A Yes, sir. And we went together, and they stood on the corner of 105th street and Second avenue, the drug store, and I called up. Joe Cohen told me--

Q What sort of telephone did you use there? A A telephone booth that you drop a nickle in.

THE COURT: What corner was that, did you say?

THE WITNESS: 105th Street and Second Avenue.

Q The gunmen stood on the corner? A Yes, sir.

Q Did you use the telephone? A Yes, sir.

Q What number did you call up? A I forget. I had his card always.

Q You had Joe Cohen's card? A Yes, sir.

THE COURT: You called up his house?

THE WITNESS: Yes, sir, and his wife got on the telephone.

Q You talked with somebody on the other end of the phone?

A Yes, sir.

Q Did you talk with Joe Cohen? A No.

Q After talking to that person where did you go? A To his home.

Q What time did you get there? A Late.

Q Late? A Yes, sir.

Q Who was there when you got there? A David Jacobs, his and wife, Joe Cohen's wife.

THE COURT: And was Joe Cohen there?

THE WITNESS: No, sir.

Q Did you see Joe Cohen later? A No, sir, -- he came in later because his wife had already told me through the telephone that he was not in.

Q When Joe Cohen came in did you have a talk with him?

Yes, sir.

Q What talk did you have with him? A He took me the back room, and he said first no more than he came in and he finds me there, he says, "Hello, Tony", and I said "Hello Joe".

Q Who was in the room when he said "Hello, Tony"?

A David Jacobs' wife, his wife, Jacobs and me.

Q Now, after that he took you into another room? A Yes, sir.

Q What talk did he have with you in the other room?

A He told me "Tony, I don't want you to come down here; what is the matter with you?" I says "The fellows there want money". He says "I know, Tony, you don't want to take the chances of coming down here; didn't I tell you before I ~~am~~ going to be watched; don't come near me; I will make it my business to send up the money".

BY THE COURT:

Q Did he say where? A He told me had to see somebody, he did not have the money; he said "All right, I will send up Abe Graff the next night".

Q With the money? A Yes, sir.

BY MR. O'WALLEY:

Q Did he tell you whom he had to see? A I guess Willie Simon.

Q No. Did he tell you? A No, sir.

Q After talking with him there do you recall that he said

anything else at the time? A He said "You go home, Tony; I will send Abe Graff over tomorrow night with the money". That is all I can recall.

Q Did you then return to New York? A Yes, sir.

Q Who did you see? A I met the two gunmen.

Q Did you have a talk with them? A Yes, sir.

Q What next occurred after that? A The next night Abe Graff brought the money over to the saloon of Ippolito Greco.

Q How much? A \$500.

Q And what next occurred?

THE COURT: What kind of money was it?

Q What kind of money was it? A I did not see the money.

Q Who did he give it to? A He left it to Ippolito Greco in his saloon.

BY THE COURT:

Q How do you know that? A Because the next day when he saw me he told me.

Q Graff told you? A Yes, sir, the next time he saw me.

BY MR. O'MALLEY:

Q What did Graff say the next time you saw him after the murder? A That he had brought up \$500. to the saloon and given it to Ippolito Greco. But I did not know that it was the same night or the next morning, I knew it through Ippolito Greco that \$500. was brought up to him, and Ippolito Greco gave it to the two gunmen.

THE COURT: Who told you that?

THE WITNESS: Ippolito Greco.



Q You spoke about seeing Abe Graff once up to your house? A Yes, sir. That was after.

Q How soon was that after the murder? A About a week after.

Q What talk did you have with him on that occasion besides what you have already told us? A He come up with \$50.

Q What talk did you have with him about it? A I said "What do you want with \$50. for?" He said that is what he should have got; he said he brought up the \$50. and he told me that Joe Cohen did not have any more. I said "Gee, I am going to give the fellows \$50., am I? If you cannot bring them up any more, don't bring any, they are raising hell because they cannot get money, now the thing is done they want the money".

Q What did Abe Graff say? A He said "That is all which <sup>gave</sup> Joe Cohen ~~said~~ me to take up".

Q And what became of that \$50.? A He took it back again. I did not want to take it.

Q Did you see the gunmen after that? A Yes, sir, and I told them.

Q What talk did you have with them? A I told them that he brought up \$50. And they said "You get busy; we know you are a good fellow; we are going to give them a lot of trouble down in the market; we ain't afraid of them". So I made it my business to meet Joe Cohen in a certain place by Harry Fleck's.

Q How did you get in touch with Joe Cohen? A The fellows told me -- they said "Now get busy, get in touch with Joe Cohen again". I said "I don't want to go in his house". He said "Don't you know any friends of his that you could go there and then he should go and call"? I thought it over, and I went over to Harry Fleck.

Q Where is his place? A Down on the east side there, in Fleck's slip.

Q About how long was that, do you think, after the murder?

A About 20 or 22 days. I do not recall.

Q When you first got there did you see Joe Cohen? A No, I got there very early.

Q Did you go to his house? A No, but <sup>to</sup> Harry Fleck's down in Fleck's slip.

Q Did you see Harry Fleck there? A Yes.

Q And did you see Joe Spencer there? A Yes.

Q After speaking with them did you later see Joe Cohen that same day? A Yes, sir, in the afternoon; I stood there about five hours.

Q You stood there about five hours? A Yes, sir.

Q And did Joe Cohen come over? A Yes, sir.

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

Q Tell us everything that occurred after Joe Cohen got there? A I told him that the fellows were willing to go down the market and give them trouble because they thought the money was going to be paid right away.

Q Were Harry Fleck and Joe Spencer there then? A No. Joe Spencer had to go to work for other markets, and Harry Fleck did not stay near.

Q When Joe Cohen got there was there anybody there but himself? A And there were two or three workmen.

Q Now, tell us what occurred when Joe Cohen came? A I told him "Now, Joe, the job was done; the fellows come up to my house and they gave me hell, that they want the money, if they don't get the money soon they are going down to the market and give you trouble". He says "I have not any money, I have to see somebody, I am watched all around". He said "Down in the market there is a lot of detectives and no matter to whom I speak they listen". He says "I have not got no money". And he even told me that he had to hock some jewelry or something to get some money together like.

THE COURT: To get what money?

THE WITNESS: To get \$1,000.

Q When Joe Cohen first came there where did he go -- into the office or the market? A Into the office, and after he don't want to speak in the office, and he said afterwards "Come on out of here, maybe there is some wires fixed up here, Tony".

Q And then where did he take you? A Right in back of the office.

Q And there is where you had this talk? A Yes, sir.

Q Have you told us everything you recall about that conversation? A He told me, after we had all that talking, "Why, he said, "I even asked my brother-in-law for some money and he did not have no cash".

Q Did he mention his name? A Pollack. He is in the fish business.

Q Sam Pollack? A Yes, sir.

Q Was there anything said about the amount of money that had to be got? A He said "Tony, they are only supposed to get another \$500.". I said "What, didn't you tell them you were going to give them \$1,000. if the job was done right?" He said "All right, Tony, I have to see somebody, I do not see how I am to get it". And he says "Anyhow, you meet Abe Graff tomorrow night at the station at 145th street and Lenox Avenue and he will bring the money"-- because I told him that the boys was going to go down to the market and raise trouble if they did not get the money.

Q Did you say anything else about the trouble that they were going to raise? A To go after Joe Cohen, that they knew who he was, and a whole lot of them said it.

Q Now, where did you go when you left there? A Harlem.

Q Did you see the gunmen? A Yes, sir.

Q Did you have a talk with them? A Yes, sir.

Q What talk did you have? A I told them that Abe Graff was going to come up and bring the money at 145th street and Lenox avenue, near the subway station.



Q Well, what next occurred? A He come up there.

Q When? A About 10 minutes after nine.

Q When -- the next night? A Yes, sir.

Q Where did you go that night -- where did you and the gunmen go? A Before we got there?

Q Yes? A Took the 3rd Avenue "L".

Q At 106th Street? A Yes, sir.

Q And where did you go to? A To 145th street.

Q When you got there tell us where you went? A No more than we stood around the station waiting for Abe Graff -- me and the gunmen.

Q You mean the 145th street and Lenox avenue subway station?

A Yes, sir. So we were waiting for Abe Graff. So about 10 minutes after, Abe Graff come out -- I don't know from what side of the subway, and we seen him, and he walked around like before he came to us; he wanted to see if anyone was watching. And then we went into a block that was dark like; and he said "Hello, Tony", and he said "Hello" to the other fellows. He said "I have got the money". So he took out a bundle and he give it to him.

Q That is one of the gunmen? A Yes, sir.

Q You say he took it out of his pocket. Did you see it?

A Yes, sir. It was wrapped up like the way you see it in a bank when you deposit money in a bank--in a bundle like.

BY THE COURT:

Q A band on it? A Yes, sir.

Q A paper band? A I do not recall whether it was rubber or not. I know it was laid out flat like.

BY MR. O'MALLEY:

Q To whom did Abe Graff give the money? A He wanted to give it to me, and I said, "Give it to him" and he gave it to him.

BY THE COURT:

Q Did he say how much money? A He said that he brought up one thousand dollars.

Q That there was \$1,000 there? A Yes, sir. And he said that he even had to help Joe Cohen out by hooking a large diamond ring he had,-- he said, "I had even to hook my ring to help Joe Cohen out."

BY MR. O'MALLEY:

Q How long were you there on the street? A Oh, about half an hour altogether. We walked down to the bridge there.

Q You and who? A Me and the gunmen and Abe Graff. And then after he went home and we came down.

Q Where did Abe Graff live at that time? A In the Bronx somewhere. I could not tell you.

Q Which direction did he go after he left you? A Towards the Bronx.

Q And you and the gunmen went where? A Towards down town.

Q What was the next thing that occurred between you and the gunmen? A He told me -- he said, "Tony, it is a good thing--"

MR. MOSS: I object to this.

Q Did you see the gunmen after that any place? A Not right away.

Q Did you see any of the defendants after that? A Davy Jacobs.

Q Where? A He came up to my house.

Q How long was that after the murder? A May be a week or two.

Q What talk did you have with him? A He told me that he went over to the Gas Company in order to draw the deposit--to 114th street and Third avenue to get the deposit back which we had deposited in the market.

Q You mean the deposit which Cardinale and Jacobs had to put up with the Gas Company? A Yes, sir.

Q And he went over there to get that? A Yes, sir.

Q What did he say? A And he told me that he was near Coney Island somewhere working in a laundry which Joe Cohen had at first, and the moment he heard that Raff was killed he drank four schooners of beer "which I had never done in my life before."

Q Did you have any other talk with him? A I do not recall.

Q Now after that did you go to work many places? A Yes, sir.

Q Where? A Pelegrino Brothers.

Q And where is their place? A No. 192 Elisabeth Street.

Q How soon after the murder did you go to work there?

A Right after New Years some time--in January some time.

Q You told us some time ago that at the time you sold out your interest in the market in East 108th street to Abraham Cohen, you had a talk with Joseph Cohen, the defendant, about getting another market? A Yes, sir.

Q And did you talk with Joseph Cohen about that any more than you have already told us-- that is, after you first spoke to him about it, and before the murder had you been talking to him about it? A About the market?

Q Yes, in Brooklyn. What talk did you have with him before the murder? A That is before I sold out the business; he told me to try to pick out a good spot in Brooklyn some place and get the permit there, and he said, "I will back you up."

Q Before the murder had you done anything towards getting this market? A Yes, sir, I went down there to show the place with a person.

Q You went with somebody and looked at the place? A Yes, sir.

Q How many times had you talked with Joe Cohen about the market, before the murder? A About two or three times, or three or four times. I do not recall that.

Q When was the next time you saw any of these defendants



after the thousand dollars was brought up by Abe Graff. Which was the first one you saw? A Joe Cohen.

Q Where did you see him? A Down to Harry Fleck's.

Q Was that after the murder? A After he came out of-- he was locked up; after he came out of the tombs.

Q Did you have any talk with him there at Fleck's place?

A Yes, sir.

Q What talk did you have with him? A He said, "Tony, didn't I tell you no more than the thing happened why they would grab me and my brother". I said, "You will get out just the same, they will never suspect that on you." He said, "You cannot tell, I hope nobody squeals", he said.

Q Did you have any further talk with him about when he was locked up? A He told me that there was a man in the cell that he thought he was a detective, that he wanted to find out something off of him.

Q You mean in his cell? A In his cell or next to his--I don't know.

Q While he was in jail? A Yes, sir. He mentioned that Frank Burke was there.

Q What did he say about that? A He told Frank Burke the morning he was coming out to give his regards to me through Frank Burke, and Frank Burke saw me in 108th street and he told me that he was in the next cell where Joe Cohen was in the tombs and he sent his regards to me.

Q Is that the same Frank Burke who came in here this after-

account? A Yes, sir.

MR. MOSS: I move to strike that out as having no bearing on the issue.

THE COURT: Motion denied.

MR. MOSS: Exception.

Q Did you have any other talk with Joe Cohen at that time, if you remember? A I do not recall.

Q When did you next see him? A I seen him a lot of times.

Q Where did you use to see him? A Why, at Harry Fleck's, in his market.

Q What time did you use to see him? A I know that he used to send down Joe Spencer-- the first time he sent down Joe Spencer.

Q Did you see him in the day time or the night time? A In the day time.

Q Did you ever have any further talk with Joe Cohen about the Brooklyn Market? A Yes, sir.

Q Tell us that. A I told him that I was over to get-- that I was already getting the signatures from the owners of the property, and I had to get the map drawn. He said "Go ahead Tony, I will back you up, I-- because I used to go to expenses.

Q Was there anything else said? A I told him that I was taking there a fellow to get the signatures from the owners.

Q Where was this market you were trying to get in Brooklyn?  
Central  
A ~~Spencer~~ avenue and Willoughby avenue.

Q Suydam avenue or Central avenue? A Central avenue.

Q Did you ever try to get a market on Suydam street? A Yes, sir, that was afterwards.

Q That was afterwards? A Yes, sir.

Q Did you ever have any plans drawn for this market?

A Yes, sir.

Q Did you ever have any talk with Joe Cohen about these plans? A Yes, sir, and I showed it to him too. I told him that the first place had to be thrown down and fixed up according to the way the Board of Health wanted it, and it would cost a few hundred dollars. He said, "I will go down there myself some day with the buggy and look at it."

Q Did you have any talk with Joe Cohen? A I had that talk with him.

Q Did you have any talk with Joe Cohen about money? A Yes. I told him that I need the money to take the lease and do all that. Before he give me the money he wanted to see the place. He told me that he knew somebody that would fix it up, and he could pay him on the installment plan, or something like that. But I never saw this fellow.

Q How many times did you meet Joe Cohen over at Harry Fleck's? A About eight or ten times.

Q That was between the time when the murder was committed until when? A Until I went to the other side.

Q When did you go to Italy? A On the 14th of August, 1915.

Q During your absence did you receive any money from Joe

Cohen? A Yes, sir. Abe Graff used to send it over.

He used to give it to me for the expenses.

THE COURT: What expenses?

THE WITNESS: For getting witnesses and going over to Brooklyn for the money.

Q You say Joe Cohen gave you some money? A Some time.

Q How much money? A I do not recall. I know he left word with Harry Fleck-- he said, "When Tony comes give him five or ten dollars and charge it to me."

MR. MCES: I move to strike that out.

Q Did Joe Cohen tell you that? A Yes, sir.

Q About how many times did you say you received money from Harry Fleck? A About four or five times. I do not recall it.

Q And what amount did you receive? A Five or ten dollars; I got once, if I am not mistaken, I think I received \$25.

Q Did you ever receive any money from Joe Cohen except what you received through Harry Fleck? A Once he brought over, or he sent it over to the store--

THE COURT: Strike that out.

Q Did you have any talk with Joe Cohen about money except that which you received through Harry Fleck? A No.

Q Did you ever receive any money after that at any time?

A After that, yes, sir.

Q After you received this money did you talk with Joe Cohen about it? A Yes, sir, I used to meet him down there.

Q Did Joe Cohen say anything about this money you had re-



ceived? A About the permit for the Brooklyn market -- he said, "Tony, try your best to get the permit."

Q I understood you to say you received \$25.? A Yes, sir.

Q At Pelegrino's? A That was after.

Q All right. Come to that? A That is what I was going to say before--that once there was brought over \$25 in 121 Mulberry street.

Q Did Pelegrino have a place there too? A Yes, sir.

Q After that money was brought to Mulberry street, did you have a talk with Joe Cohen about it? A Yes, sir.

Q What talk did you have? A He said, "Did you receive the \$25." I said, "Yes." I guess he told me he brought it over, but I do not recall.

Q But he did tell you he had sent it over? A Yes, sir.

THE COURT: We will now adjourn for the day.

(The Court duly admonished the jury and an adjournment was then taken until tomorrow, Thursday, June 28th, 1917, at 10 o'clock a.m.)

THURSDAY, JUNE 28, 1917.

The Court met pursuant to adjournment.

The People vs. JOSEPH COHEN and others, resumed.

ANTONIO CARDINALE resumed the stand.

DIRECT EXAMINATION CONTINUED BY MR. O'MALLEY:

Q At the close of last night's session you were telling us about your talk with the defendant Joseph Cohen when he asked you if you had received \$25. which had been sent over to you. Do you remember that? A Yes, sir.

Q And I think you said you told him that you had received it? A Yes, sir.

Q But you said Joe Cohen said he sent it? A Maybe he did. I don't recall.

Q Do you recall what the next talk was that you had with Joe Cohen? A I recall that he told me to meet him in John Wanamakers in 8th Street, on a buggy -- that he was supposed to pass there with a horse and buggy.

BY THE COURT:

Q What is that? A To meet him in John Wanamaker's store in 8th Street, that he would be there with a horse and buggy.

Q When was that. How long after the shooting? A About two months after.

BY MR. O'MALLEY:

Q Do you remember whether it was warm weather or cold weather? A Warm weather. It was more than two months maybe.

Q Where did you have this talk with the defendant Cohen when he told you to meet him in Wanamaker's? A Harry Fleck's.

Q Did you meet him? A Yes, sir.

Q You mean Wanamaker's department store up here in Astor Place and 8th Street? A Yes, sir.

Q Tell us what occurred, how you met him there? A I was waiting on the corner and I seen him coming along.

Q With what? A With a horse and buggy.

Q In which direction was he coming? A From the west side. And he told me to get on -- on the horse and buggy. So we went through Delancy street bridge over to Paddy Cohen's market in Brooklyn.

Q Do you know who Paddy Cohen is? A He is in Brooklyn.

Q Where is Paddy Cohen's market? A It is near the Brooklyn Bridge, about 10 blocks away or something like that.

Q That is, you crossed the Delancey street bridge? A Yes, sir.

Q In that general locality? A Yes, sir.

Q Tell us what talk, if any, you had with Joe Cohen when riding over with him in the buggy? A Yes, sir. He told me about Frank Burke that he had sent over his wife home that he wanted to get money help from him.

Q Joe Cohen told you this? A Yes, sir.

Q Where did he say Frank Burke had sent his wife? A In his home in Brooklyn.

Q In whose home? A Joe Cohen's home.

Q To get money? A I don't know if he did or not.

Q But to get money? A Yes, to get money.

Q What else did he say? A He told me that he was watched, that he could not move you know, no matter what move he used to make they used to have detectives after him.

Q Do you recall any other conversation you had with him at that time? A I recall that he told me that he had at home his wire tapped, and somebody was on the roof, some detectives.

Q Do you recall any other conversation you had with him at that time? A I recall that when we went out in Brooklyn he gave me \$25.; he left me in the buggy and he went in the market, and after he came out he gave me \$25.; he said to go ahead to get the permit for the Brooklyn Market.

Q That is, he left you in the buggy when he went in his brother's market? A Yes, sir, Paddy Cohen.

Q And when he came out he gave you \$25.? A Yes, sir.

Q Now, is that all the conversation you recall having had with him at that time? A Yes, sir.

Q Do you recall having talked with him about Moe Rosenstein at that time? A Yes, sir -- that he had already squealed.

Q Tell us what Joe Cohen said about that? A I know it before from --

Q No. Tell us what Joe Cohen said at that time? A He said "What do you think of that Chicken Moe, that he was going to squeal, and he is going to put a whole lot of us in



trouble", and that he already made a statement against me and him -- Joe Cohen. He said "I don't know him, Tony; if he knows anything he knows it through you and Abe Graff; I never wanted to trust that fellow".

Q What else did he say? A He told me that he went over and worked for Harry Baff.

Q Who did? A Chicken Moe. And Harry Baff offered him \$5,000. if he will tell him who was the cause that killed his father. So this Chicken Moe went over to a fellow in the market -- I don't know his name -- and he wanted to get that fellow to corroborate his story.

Q This is what Joe Cohen told you at this time? A Yes, sir, and Abe Graff told me the same thing.

Q Confine yourself to the talk you had with Joe Cohen about it. Do I understand that he told you that Moe Rosenstein had gone to work for Harry Baff and that Harry Baff had offered him money to tell him about who killed his father? A Yes, sir.

Q And that Moe Rosenstein had gone to somebody else to get him to corroborate his story? A Yes, sir; and he took him over in the saloon there, and he told him the whole thing, that he would give him \$2500. and some of his wages too.

THE COURT: That is, Moe told this other fellow that?

THE WITNESS: Yes, sir.

Q Proceed. A So this fellow took the whole story in

from Chicken Moe, and then he went over and delivered it to Joe Cohen because he was a friend to Joe Cohen.

THE COURT: That is what Joe told you?

THE WITNESS: Yes, sir. And Joe Cohen took this fellow to his lawyer and he made him make a statement that Chicken Moe wanted to buy him to corroborate his story.

Q What else did Joe Cohen say at that time? A I do not recall any more just now.

Q Did he say anything at that time about West Washington Market and about himself being watched? A Yes, sir, that there used to be a lot of detectives, even that they had rubber boots on, and he could not speak to nobody.

Q Do you recall what was the first talk, if any, you had with Abe Graff after you saw him up town and at the time he gave the \$1,000. to you and the gunmen. When did you next see him as near as you can remember? A In Pelligrino's store at No. 192 Elizabeth Street.

Q At that time you were working there? A Yes, sir.

THE COURT: When did you see him there?

Q About when did you see him there? A I seen him there about 8 times.

Q Eight times? A Yes, sir.

Q You mean that that was between the time of the murder and the time you went to Italy? A Yes, sir.

Q Do you recall any conversation that you had with Abe Graff on any of these occasions when he came to Pellegrino's

store? A Yes, sir. He told me that Chicken Moe already had made the statement against me and Joe Cohen, but did not mention Joe Cohen all right, but me all right.

Q That Abe Graff told you that Moe Rosenstein had mentioned you? A More than Joe Cohen.

Q What else did he say to you? A He said "We ought to get rid of that bastard, he will put the whole lot of us in trouble yet". I said "Is it not enough that we are so much in trouble".

BY THE COURT:

Q And what did Graff say then? A He said "Tony, you can be sure that that fellow some day he is going to give us a lot of trouble; you speak to the boys and it will be \$500. if they can kill Chicken Moe".

BY MR. O'MALLEY:

Q And what did you say? A I told him that I was in enough trouble already. He said "Anyhow, you speak to the fellows, they might do it; you know I cannot go around there; I am watched too". So he say "I will bring you the picture of Chicken Moe", he said, "and you can give it to the fellows so that they can follow him him up and give it to him". So the next time he brought over the picture and a copy of the statement that Chicken Moe had made.

Q Now, tell us about that, when he came over and brought this copy of the statement. What statement was that? A The statement that that fellow made to Joe Cohen's lawyer.

Q Did you see the statement? A Yes, sir, but I did not read it though. It was two sheets.

Q Two sheets? A Yes, sir.

THE COURT: Did he give you a picture of Chicken Mee?

THE WITNESS: Yes, sir.

~~THE WITNESS:~~

Q Describe that picture that he gave you of Mee?

MR. KOPP: That I object to.

BY THE COURT:

Q What did you do with the picture? A I hide it. I did not show it to the fellows.

Q Do you know where it is now? A After I went away the things were removed --

Q Where did you hide it? A I put it away in my home. It ain't there no more.

Q Do you know where it is now? A I do not think so.

BY MR. O'MALLEY:

Q That is, it was there and you hid it away before you went away? A Yes, sir.

MR. MOSS: This testimony of course is not received against anybody but Abe Graff?

THE COURT: I will take it for all proper purposes.

MR. MOSS: I want it distinctly stated by the Court that this testimony is not received against anybody but Abe Graff.

THE COURT: I decline to so state.

MR. MOSS: And I ask it specifically with reference to



my clients the Cohen brothers.

THE COURT: Motion denied.

MR. MOSS: Exception.

MR. GILCHRIST: And I also ask it with reference to my client.

THE COURT: Motion denied.

MR. GILCHRIST: Exception.

Q Describe this picture? A It was about two and a half by three.

Q Inches? A Inches. It was Chicken Moe and Abe Graff together. And he told me that he got them down in the market; he said that one of these fellows passed through there that he called Chicken Moe, and he said "Come on", he said he was trying to be his friend you know -- "come on and we will have our pictures taken together". And they did have their pictures taken together.

THE COURT: This is what Abe Graff told you?

THE WITNESS: Yes, sir. And they were taken together.

Q You saw the picture, did you? A Yes, sir.

Q And the picture showed Abe Graff and Moe Rosenstein taken together? A Yes, sir.

Q What if anything was done with that picture in your presence?

MR. MOSS: I object to this as it has no connection with the clients I represent.

THE COURT: Objection overruled.

MR. MOSS: Exception.

MR. GILCHRIST: I understood that at the beginning of the trial an objection and exception taken in behalf of one defendant was to be understood as taken for all?

MR. MOSS: That objection I limited to the Cohens myself.

MR. GILCHRIST: Then I desire to interpose an objection to this line of testimony, in behalf of my client, and I also taken an exception.

THE COURT: Yes.

Q (Question repeated)? A I took them upstairs because in the store there are too many people around.

Q You took them upstairs where? A To where the engine was in Pellegrino's store at No. 192 Elizabeth street on the first floor.

Q Now go ahead and tell us what you did when you got up there? A So Abe Graff took out this picture and the papers; so he showed me the picture, and he told me I should give it to the fellows. So there was a big scissors there, and he said "Tony, cut my half out". So I did cut it out.

THE COURT: You cut Graff's picture out?

THE WITNESS: Yes, sir.

Q Now proceed? A All in small pieces.

Q So that left you just the picture of Moe Rosenstein?

A Yes, sir.

Q Describe Pellegrino's store where you worked. What kind of business was it? A It is a macaroni factory and a grocery like.

Q And a grocery store? A Yes, sir.

Q There is one portion of the business that is conducted on the ground floor? A There is a basement and they have all the machinery down there; and on the ground floor they have the store and the drying room; and upstairs they had another engine but they took it off -- that is what I heard. And that was done upstairs to the top floor.

Q Was that where you went? A Yes, sir.

Q When you met Abe Graff over there at Pelegrine's did you always meet him in Mulberry Street? A Always in Elizabeth Street.

Q And when he came there where did you talk with him?  
A Upstairs.

Q Now, can you tell us anything else that occurred between you and Abe Graff on the occasion that he came over there?

A Yes, sir. He bought some spaghetti as an excuse --

MR. KOPP: I object to that. Let us have the time fixed.

THE COURT: Fix the time.

Q About when was the next time you met Abe Graff over there? A Every 20 or 25 days he used to come in.

Q When was the first time he came over there after the murder, would you say? A After Joe Cohen come out of the jail.

Q And after that did he come over every 20 or 25 days until you went to Italy? A Yes, sir. The night before I went to Italy he came there the last time.

Q I think you testified that you went to Italy about August 14th? A Yes, sir.

Q And tell us what conversation you had with Abe Graff at that time? A I told him that I was working about the permit in Brooklyn, the chicken market.

MR. O'MALLEY: There is another subject which I will take up for the present, as Mr. Koop desires to be absent from the court room, I understand.

THE COURT: Proceed.

Q Tell me when was the last time you saw Joe Cohen before you went to Europe? A About a month before I went, 20 days before I went on the other side.

Q Where did you see him at that time? A At Harry Fleck's. Always I used to meet him there.

Q What talk did you have with him at that time, if you can tell us? A I told him about the maps that I had already drawn in Brooklyn.

Q The permit in Brooklyn? A Yes, sir.

Q To start a market there? A Yes, sir. And I told him that I went to expenses and still and all I left the papers with Miss Sullivan to go ahead and get the permit.

Q Did you mention Miss Sullivan to Joe Cohen? A Yes, sir.

Q Who is she? A That is a woman that lives in No. 10 Columbia street.

Q She was a friend of yours? A Yes, sir.

Q She was trying to help you to get this permit and these



consents from the property owners over there? A Yes, sir.

Q What further talk did you have with Joe Cohen about it?

A I said "Joe, do you know that I am watched day and night; I might as well go on the other side". I told him that my class had been called.

THE COURT: That is in the army?

THE WITNESS: Yes, sir.

Q What did you say to him? A "I am watched day and night; so I am going to go to the other side, and then in a year I may be back when the war is over". And he said "Go ahead, Tony, leave a word to somebody about the permit, I will back them up just the same".

Q Did you have any other talk with him that you recall, at that time? A Yes, sir. He told me -- he says "Well, go ahead, Tony; I will give your wife \$5. a week, and I will send it over with Abe Graff in Pelegrino's store"; he says "You can be sure of that". Now, comes in about Abe Graff.

Q Just confine yourself to the talk you had with Joe Cohen?

THE COURT: Did your wife remain in this country?

THE WITNESS: Yes, sir.

Q And how many children did you have at that time? A Two.

Q Do you recall any conversation you had with him at that time? A No, sir, I do not recall.

Q Do you recall his having said anything about Pelegrino?

A He said that he was going to send the money with Abe Graff to Pelegrino's store.

Q Pelagrine's? A Yes, sir.

THE COURT: That is, the money to your wife?

THE WITNESS: Yes, sir.

Q Now, you told us that you sailed to Italy on August 14, 1915? A Yes, sir.

Q And you went direct to Italy, did you not? A Yes, sir.

Q After you got there did you join the Italian army?

A Yes, sir, after six days.

Q And were you in the army up until the time you were arrested? A 11 months.

Q Were you then in active service at the front, or where were you? A No, sir, at Catania to learn the soldiers how to drill there.

Q Can you tell us about when you were placed under arrest by the Italian government? A There came an order --

Q About when was it? A The 17th of May.

Q The 17th of May 1916? A Yes, sir. But they only kept me there.

Q Then you were put in prison? A On the 23rd of May.

Q And were you then in custody up until the time you were returned here? A I was in jail.

Q You were in jail over there? A Yes. I could not receive no mail from home or no news at all. My people could not get near me for six months.

Q Do you know about when you left Italy to come to this country? A Yes, sir.

Q When? A November 8th.

Q November 8th you sailed? A Yes, sir.

Q And in the custody of whom? A Two Italian officers.

Q And you were brought here and delivered to the Italian Consul, were you? A Yes, sir.

Q And since then you have been in custody here of the New York City authorities? A Yes, sir.

Q You testified last night that you received money from Harry Fleck? A Yes, sir.

Q Harry Fleck of the Peek Slip? A Yes, sir.

Q After a conversation you had with Joe Cohen in which Joe Cohen told you that he had told Harry Fleck to give you some money? A Yes, sir.

Q Do you recall who paid that money to you? A Sometimes Joe Spencer and sometimes Harry Fleck.

Q By "Joe Spencer" you mean the bookkeeper? A Yes, sir.

Q Was he the same man that looked after the books of Cardinale and Jacobs at one time? A Yes, sir.

Q Now then, have you told us all the conversation that you recall you had with Joe Cohen? A Yes, sir.

Q Do you recall having had any conversation with him about some chickens -- poultry? A Yes, sir.

Q Tell us about that and where the conversation took place? A At Harry Fleck's.

Q Tell us what conversation you had with him? A My brother-in-law, that is, Leone Campo --

that purpose.

Q Did you ever have any further talk with Joe Cohen about the chickens after you saw Harry Fleck?

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

THE COURT: Objection overruled.

MR. MOSS: Exception.

A I do not recall.

Q Did you ever have any talk with Joe Cohen about paying for those chickens.

MR. MOSS: The same objection to that, your Honor.

THE COURT: Objection overruled.

MR. MOSS: Exception.

A Yes, sir. The chickens were already shipped -- he had them already to ship them over; I told Harry Fleck to give me the bill; he said "It is all right, Tony, Joe told me to charge it to him".

Q Did you speak to Joe Cohen about that? A Yes, sir.

Q Tell us what he said? A He said "Yes, Tony, I told him to charge it to me".

MR. O'MALLEY: Now, that Mr. Kopp has returned to the court, I will proceed, your Honor, with the other matter that I was questioning the witness about.

THE COURT: All right.

MR. KOPP: I will be engaged for about 10 minutes more. Mr. Moss will represent me in my absence.

THE COURT: Very well.



Q Now, at any time that you saw Abe Graff over at Pelegrins's, did you have any other talk with him that you can tell me about?

MR. MOSS: I object to that on behalf of the Cohens, on the grounds previously stated.

THE COURT: Objection overruled.

MR. MOSS: Exception. And I want that objection to apply to all this testimony regarding Abe Graff, on the ground that the Court does not limit it to Graff.

THE COURT: The same ruling. The objection is overruled.

MR. MOSS: Exception.

MR. GILCHRIST: And I desire to interpose the same objection as to Jacobs.

THE COURT: Yes, and the same ruling.

MR. GILCHRIST: Exception.

Q Now proceed? A I remember the last time that he came there because I had already told him a few times before that I was going back on the other side -- he said "All right, Tony, I will tell Joe Cohen and we will try to get a couple of dollars for you, we know that you are broke". I said "All right". And the last time he brought over -- I do not recall whether it was \$40. or \$50. That was the night before that I went on the other side.

Q Where did you see him? A At Pelegrin<sup>o</sup> Brothers, upstairs.

THE COURT: Who gave it to you?

THE WITNESS: Graff.

Q At that time did he tell you where he had gotten it?

A Joe gave it to him.

MR. MOSS: I move to strike that out.

THE COURT: Motion denied.

MR. MOSS: Exception.

THE COURT: You say Joe Cohen gave it?

THE WITNESS: Yes, sir.

Q Did you have any other talk with him at that time about any other money? A About \$5. a week.

Q Tell us what he said about that? A He said "Tony, you can tell this fellow Pelegrin<sup>o</sup> that I will bring over \$5. a week and he can leave it to your wife or brother, and tell him that he owes me money and was going to pay me up so much a week".

Q That is, he told you to tell Pelegrin<sup>o</sup> that he, Graff, owed you so much money, and he was going to pay it up so much a week? A Yes, sir, and he said "If I cannot come every week I will bring it every month altogether."

Q Did Ape Graff ever bring you any other money besides this \$40. or \$50. which you say he brought you just before you sailed for Italy? A Yes, sir. I do not recall if it was \$25.

Q And about when did he bring you that -- about how long before you left for Italy? A Maybe a week before -- a week before the last time.

Q Did you have any talk with him about that? A That I

was going on the other side. He told me that he wished me luck and all that.

Q Did you ever have any other talk with Abe Graff in regard to money for the Brooklyn permit? A I do not recall it.

Q Now, did you see either William Simon or Louis Cohen after the murder. Yes or no? A Yes, sir.

Q How many times did you see Louis Cohen? A Three or four times.

Q And on each occasion where did you see him? A On 110th street

Q Do you recall about when was the first time you saw him after the murder, leaving out the two occasions when you saw him, first, the evening of the murder, and the next day when you spoke to him. Leave out those two occasions and tell us when you remember when you next saw him? A The third time was three or four months after the murder.

Q And where did you see him? A In his own market in 110th Street.

Q What time of day was it -- night or day? A Night. Always in the night I used to go.

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

THE COURT: Who was this -- Louis Cohen?

MR. O'MALLEY: Louis Cohen, yes, sir.

Q Tell us what talk you had with him?

MR. MOSS: I object to it on behalf of the Cohens and of Graff, on the ground that it has no relationship to them.

THE COURT: Objection overruled.

MR. MOSS: Exception.

MR. GILCHRIST: And I make the same objection -- on the ground that no connection has been shown between this party and my client.

THE COURT: Objection overruled.

MR. GILCHRIST: Exception.

Q (Question repeated)? A I told him that I was working for very little money, because I did not want to give suspicion that I was working on the permit in Brooklyn, and I was not doing anything. So I told him that Joe Cohen told me he was going to back me up; and still I did not know that he was going to back me up right. And he says "I don't want to know nothing, you speak to Joe Cohen and William Simon".

Q At what place did you have that conversation with him?  
A Inside of his place.

Q Did you see him at all that evening outside of his place, on the sidewalk? A Yes, sir.

Q Tell us what occurred? A That was the last time. I never went near him after that any more.

Q Did you see anybody else around there that night when you saw him? A All the working people were there.

Q Have you told all the conversation that you recall at that time? A No, sir.

Q Tell us the rest? A I went in there with the excuse to buy chickens, and I did buy them.

Q Did you tell him that? A Yes, sir. I told him -- I says "Gee, none of youse want to know me, nobody wants to



know as now". He said "Tony, don't come around here because I am watched myself, there is fellows behind on the corner watching this moment". And it was a rainy night. So he went outside, and I was ready to go out with the chickens, and he said "I see they are standing on the corner"; and I said "Good night", and I never seen him after that no more. So no more than I started to go home I seen one of these fellows on the corner -- there is a drug store on the corner of 110th Street and Second avenue -- walk towards 109th street.

MR. MOSS: I move to strike that last out.

THE COURT: Motion granted.

Q At that time did you see any police officers? A Yes, sir.

MR. MOSS: I move to strike out the answer and I object to the question.

THE COURT: Objection overruled and motion denied.

MR. MOSS: Exception.

Q Where did you see them on that occasion? A I only saw a detective dressed as a citizen.

Q Where? A I think on the corner of 110th street in the drug store on the corner.

MR. MOSS: I move to strike it out -- what he thinks.

THE COURT: Motion granted.

Q Didn't you know at that time that he was a police officer?

A I was watched all the time.

Q Did you know? A No, But I expect so.

MR. MOSS: Then I move that this testimony that there were

policemen there be stricken out.

THE COURT: Motion granted.

MR. MOSS: And I move for all the defendants that this testimony down to this point referring to the conversation and dealings with Louis Cohen, be stricken out, as not relating to the defendants, the subjects of this action.

THE COURT: Motion denied.

MR. MOSS: Exception.

MR. O'MALLEY: That is all. You may cross examine.

CROSS EXAMINATION BY MR. MOSS:

Q You say you are about 29 years old? A Yes, sir.

Q How tall are you? A Five foot five, if I am not mistaken.

Q How much do you weigh? A Now I weigh 178.

Q You say you have been in this country about 17 years?  
A Yes, sir.

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

Q Or even indicted for any crime except this one? A What is that?

Q Or even indicted for any crime except this one? A No, sir.

Q You are under indictment for the murder of Mr. Baff, aren't you? A Yes, sir.

Q And you have remembered that you are a defendant charged with murder, all the time you have been testifying, haven't you? A Yes, sir.

Q Do you expect to be tried for the murder of Mr. Baff?

A Not here. On the other side.

Q Do you expect that the witnesses against you will be transported to Italy to testify against you? A This I do not know.

Q Well, do you expect so? A I guess so.

Q What is that? A I think so.

Q You think that all these witnesses appearing here will be taken to Italy to testify against you there? A Yes, that is the way that the Italian law is, I understand.

THE COURT: Do they take the witnesses there?

THE WITNESS: The testimony from here goes on the other side.

Q But you don't expect that these witnesses who appear here will be taken bodily over there to appear and testify against you, do you? A No, sir.

Q You are returned to this country simply to be a witness, aren't you? A Yes, sir.

Q That is the understanding with your government -- that you were returned to this country just simply to be a witness?

A I guess so. I don't know the whole thing.

Q Don't you know? A I ain't the head of the government.

Q Haven't you been told so? A Yes, I understand that.

Q That is all I am asking you. When was it you began the chicken business with Campo? A That is 1913 some time.

Q How much capital did you put in? A Well, through trouble and everything --

Q No. How much capital did you put in? A Around \$3,000.  
-- maybe a little more.

Q And how much did Campo put in? A Both of us together.

Q Both of you put in together \$3,000? A Yes, sir, about.

THE COURT: I understood you to say both together?

MR. MOSS: Yes, sir, so I understand him to say.

Q And did you put in any money after that? A Yes, sir.

Q Q How much did you put in after that? A Not much. I know that I hooked my wife's jewelry and my own jewelry too -- which I lost.

Q In order to sustain your business you had to pawn your jewelry and your wife's jewelry; you put in everything you had? A Not everything; some of it.

Q Put in near everything you had? A Some of it.

Q Some of your jewelry? A Yes, sir.

Q Did you keep some jewelry outside that you did not put in the business? A Yes, sir.

Q Why was it necessary for you to pawn your jewelry to put money in the business? A Because in that line of business the more money you have got the more business you can do.

Q Yes, but you said something about fighting. What was the fighting? A What fighting? There was no fighting; it was only a strike.

Q You said early in the case that there was fighting and that you had not much capital. You had trouble. What was that? A I did not say no fighting.



Q I have got the word "fighting" down here? A I never said it. I never had a fight in my life.

Q I do not mean with fists. But you had trouble there, you lost money? A Competition you know in business.

Q Did you have competition? A Yes, sir.

Q And you lost money? A Yes, sir.

Q With whom did you have competition? A Well, there was Marcus Brothers. There were about 6 or 7 of them around the neighborhood.

Q Yes I know, but the Baff business was up there, wasn't it?  
A Only in 80th street then.

Q But it came later, didn't it? A Yes, sir.

Q And you had to suffer from the Baff methods of business, didn't you? A Not only me but everybody in the business.

Q Everybody up there including yourself? A Yes, sir.

Q They were all in trouble, weren't they? A Yes, sir.

Q You did not want to put sand and cement and gravel into the crops of your chickens? A No, sir.

Q You wanted to sell honest chickens? A Yes, sir.

Q And when the Baff chickens came along with their crops weighted with these things, it made trouble for everybody?

A Yes, sir.

Q It made it necessary for an inspection by the City Department? A Yes, sir.

Q And the City Department made a lot of trouble? A Well, I don't know.

45-324

Q Well it came out as a public matter through the City inspections that these chickens were treated that way. Isn't that so? A Yes, sir.

Q Was that the only way they were made over weight. Weren't there other plans besides that? A There were many schemes. In every business there is a lot of schemes.

Q I know. But I am asking as to these schemes that you and other merchants suffered from and charged up against Mr. Baff -- didn't they wet the chickens with hose pipes in the yard? A I know this on ducks but not on chickens.

Q Why were they wet? A They claimed that the ducks needed water all the time.

Q But weren't the poultry over there besides being fed up with cement and gravel, wet with water, so that the wet of the water would be in their feathers? A I never know that.

Q Well, didn't you hear that? A No, sir.

Q Wasn't that one of the things? A No, sir.

Q Although you had put \$3,000. into that business you found you had practically no capital after a little while?

A Not after a little while.

Q Well, after a while you found your capital was gone?

A Not all gone; it was in business.

Q Pretty near? A Some of it was gone -- not all.

Q And you found yourself losing money, didn't you? A Yes, sir.

Q Hard for you to make a living, wasn't it? A Yes, sir.

Q Now, I think the first time that you told us that you met Joe Cohen was down in the market when he did you a good turn. Is that right? A Yes, sir.

Q Helped you to get chickens for your business when you could not get any yourself? A Yes, sir.

Q You found that business down there mostly in the hands of Jews, didn't you? A Yes, sir.

Q And as an Italian you did not get along so very well in buying chickens at first? A Yes, sir.

Q And you found that Joe Cohen was a big hearted fellow that would help you out? A Yes, sir.

Q And he showed you how to get your chickens? A Yes, sir.

Q And there was a particular trouble at that time on account of the strike or boycott, wasn't there? A Yes, sir.

Q So the help was all the more pleasant to you; you were pleased? A Yes, sir.

Q Well, did you tell Joe Cohen that you were having some trouble in your business? A I told him that we did not have enough capital to buy a whole lot that we need.

Q Well, did you tell him you were having trouble on account of these Baff methods? A I told him at the same time that I could not get the poultry I wanted because I was not known.

Q Didn't you tell him that Baff controlled the poultry market? A I did not tell him that.

Q Well, didn't you tell him that -- didn't you speak to

him about it? A No, sir. They told me that Baff was the biggest one in the business.

Q Yes, but didn't you speak to Joe Cohen and tell him you had trouble up there because Baff was quoting down chickens and slaughtering them as well as taking them into his commission place and making rate cutting other people, including yourself? A Yes, sir, I passed that remark.

Q You told Mr. Cohen that he would take his chickens which he sent down from the West himself and send them to the slaughter house and quote them at a less rate than they could be sold for honestly in the market. Didn't you do that? A Yes, sir, Mr. Baff, yes, sir.

Q Besides filling them up with sand and gravel? A Yes, sir.

Q And you said that that resulted in ruining you? A Not only me but everybody.

Q Well, did you say anything to Mr. Joseph Cohen about your brother-in-law Campo wanting to go out? A Yes, sir.

Q What did you say to him? A I told him that my brother-in-law did not like the idea of staying in the business.

Q Why, did you say? A Because there was not much money for him, he did not know how to run the business like.

Q Didn't you say he was tired of the competition? A No. He said "We are Italians and between Jews we cannot get along, we don't stand no show at all".

Q Well, the result of it was that when you had this talk with Mr. Cohen about your brother-in-law going out and about



"theadvertisement in the Jewish paper, that he said he would help you get somebody to buy that Campo interest, didn't he?

A He told me that he had a brother-in-law which he thought he would be a good fellow to be a partner of mine; he said "Why, if you have a Jewish partner you could do better business".

Q So you say Mr. Cohen was ready to have some one go in there that he knew even though there was competition, even though you were in trouble with Baff? A Yes, sir.

Q Even though you were losing money? A Yes, sir.

Q He was willing to put someone in there? A Yes, sir.

I don't know the reason why.

Q Now, you state that when that transaction was closed at the lawyer's office there was some money paid and some notes given; and you said that Joseph Cohen's name was on the notes? A I ain't sure.

Q Why aren't you sure now? A Because he was the one that introduced David Jacobs to me and he come up to the lawyer --

Q You did not say before that you were not sure. Why do you say it now?

MR. O'MALLEY: I object to that. I think he did.

A He was the one that took me up to that lawyer --

Q No, I say, why didn't you say you were not sure his name was on the notes when you testified before? A Because I was not sure.

MR. O'MALLEY: The record in this case I will call at-

tention to in a moment.

THE COURT: Go on with some other subject in the meantime.

Q (Handing) Is this one of the notes? A It might be one. I ain't sure.

Q Look at it and see. Do you recognize Mr. Campo's signature there? A I ain't sure of anybody else's signature. I will be sure of mine when I sign it.

Q All you can say is that you are not sure of anything on this note? A Only on the note.

Q What do you mean by that. Do you see the name of Leone Campo on the note. Is that his handwriting? A I don't know if it is his handwriting. It looks like it, but I ain't sure.

MR. MOSS: I ask to have this marked for identification.

(Marked Exhibit A. for Id.)

Q After looking at that note can you say whether or not Joe Cohen's name was on any of those notes? A I did not take notice of that.

MR. O'MALLEY: Now, I read from the record -- from page 86 -- what he said in regard to that. "Q. And to whom were those notes given? A. To my brother-in-law Campo. Q. Do you know who signed the notes? A. If I am not mistaken it was Joe Cohen. Q. Do you know whether David Jacobs was there (at the time? A. Yes, sir. Q. Do you know whether or not he put his name on it? A. I do not recall".

BY MR. MOSS:

Q. You said "If I am not mistaken, Joe Cohen". You didn't

say you did not remember. Wasn't it your intention to make us believe that Joseph Cohen's name was on these notes?

A Not exactly to make them believe.

Q Of course when you said "If I am not mistaken" nobody could say you had sworn falsely, could they?

THE COURT: That is a matter of argument.

MR. MOSS: I want to get his mind on cross-examination.

THE COURT: All right.

Q Now, it was in September 1914 that you sold out to Abraham Cohen? A I guess so. There is papers up there that will show the date.

MR. MOSS: Well, I will take the date that Mr. O'Malley gave.

Q And that let you out and left Jacobs in, didn't it?

A Yes, sir.

Q Jacobs was to remain in partnership, do whatever he could, with Abraham Cohen? A Yes, sir.

Q Well, at the time that you sold out to Abraham Cohen, wasn't your business practically bankrupt? A Yes, sir, I guess so.

Q You sold your half interest to Abraham Cohen for \$1500.?

A No, sir, for \$1125.

Q Yes, you are right. And the reason you gave all of that to Mr. Cohen except \$50. was because the business was heavily in debt. Isn't that so? A No, because I wanted to have my name clear.

Q Clear of what? A To be honest.

Q To be honest in what? A In a business way.

Q Well, there were debts owing, weren't they? A Yes, sir.

You see I needed the money.

Q I understand, but there were debts owing, weren't they?

A Yes, sir.

Q And all of that \$1125. except the \$50. was given to Mr. Cohen on account of those debts? A Yes, sir.

Q Mr. Cohen had backed you up so far as your accounts with chicken dealers were concerned, hadn't he? A He backed me up, but more he backed up his own brother-in-law.

Q Of course, but you and the brother-in-law were partners?

A Yes, sir.

Q And when he backed his brother-in-law he backed you?

A Yes, sir.

Q He backed you both? A Yes, sir.

Q Now, there was more than \$1125. owing, wasn't there?

A I guess so.

Q How much more? A I don't know. I never kept track of the books.

Q Wasn't there a good deal more than \$1125. owing?

A That is the way the bookkeepers and David Jacobs showed. I never had anything to do with the books.

Q Well, at any rate, ~~wasn't~~ the bookkeepers and David Jacobs said so -- said you owed more than \$1125.? A Yes, sir.

Q And you say those bookkeepers were men that Mr. Cohen



sent up there to look the books over from week to week?

A Yes, sir, which they are.

Q Your firm, Cardinale & Jacobs, did not really have any particular credit down there in the market, did you? A No, only Joe Cohen --

Q You could not have got any chickens if somebody had not stood behind you? A Yes, sir, we used to get it from Joe Cohen.

Q And it was because Joe Cohen stood behind you through the chicken dealers in the market, that you could get any chickens at all in the business? A Yes, sir.

Q But when it was all over your capital was gone? A Yes, sir.

Q The original \$3,000. was gone? A I don't know how much. I don't know how much was gone.

Q And you pawned your jewelry and whatever was there was gone? A Yes, sir.

Q And even what you got from Abraham Cohen was gone except the \$50. that you retained? A Yes, sir.

Q You needed the \$50., didn't you? A Yes, sir.

Q It was all you had? A I had a few dollars but very little.

Q But you needed \$50. and that is the only reason you took it, wasn't it? A Yes, sir.

Q Well, did you really believe that David Jacobs had been honest with you? A No, sir.

Q You believed that Jacobs had stolen coops of chickens?

A Not coops, in business, I don't know how he did it. I think he done me -- that is all.

Q How long had you been thinking that David Jacobs had been overreaching you in the business? A Oh, a long time.

Q How long before you sold out did you think that Jacobs had been doing you in the business? A Well, I believe about 8 or 6 months -- something like that.

Q Did you ever speak to him about it? A I called up Joe Cohen once and I told him to come up there and straighten everything out, that I wanted to get out of the business. Even once I went--

Q Wait a moment. When you complained to Joe Cohen did you complain about Jacobs? A Yes, sir.

Q Did you tell him that you thought Jacobs had been stealing? A I told him that.

Q And was that the occasion, that you spoke of when you said that Cohen turned to Jacobs and asked him why he would not be a good boy -- A I did not say that --

Q I don't say that you did. I say was that the occasion? A Yes, sir.

Q Did you tell anybody else that you thought Jacobs had been stealing? A Yes, sir.

Q Who did you tell? A Even my driver knew it -- Joe Sorro.

Q That was Joe Sorro, the man that was called up here?

A Yes, sir.

Q Joe Sorro is an Italian? A Yes, sir.

Q Just the same as you are? A Yes, sir.

Q So you and Joe had some friendship together? A We never had any friendship. He used to work for me. That is the only friendship we had.

Q But you knew him how many years? A Not long -- not more than I was in the business.

Q From the time you hired him? A The time that David Jacobs come in -- maybe three or four weeks before I know him.

Q Did you ever know him before? A No.

Q Did you know any of his people? A No, sir.

Q When did your partnership with Jacobs begin? A No more than he came in partnership.

Q When did that begin, your partnership? A You know after a while we had the books printed in some company after a while.

Q When did you begin to do business? A No more than he came in.

THE COURT: What month?

THE WITNESS: I don't remember the month but there is papers that will show it.

MR. MOSS: Mr. O'Malley says July 28, 1913 is the date of the sale.

1-C

Q Now, when did Sarro go to work for you? A He go to work a little before Campo went away, but he wasn't staying, he didn't work steady.

Q Didn't Sarro go to work for you in August? A Sarro, no more than the papers were signed,, he worked two or three weeks before.

Q Did you begin doing business as soon as the papers were signed? A Yes, sir.

Q Sarro came to work for you after you made this partnership, didn't he? A Yes, sir.

Q Did he come in the next month?

MR. O'MALLEY: You were going to say something, what was it?

THE WITNESS: He was there about two or three weeks before David Jacobs come in as a partner, he used to help about there, the fellow that used to work there, they knew each other, he didn't work there steady.

Q Now, as to David Jacobs stealing, you say he stole from you, and you talked to Sarro about it. What did you say to Sarro? A One day I looked in our book, -- I don't think I gave this to Mr. O'Malley --

Q Never mind, give me anything that you didn't give to Mr. O'Malley, I will take anything you have. A I am glad to give it to you.

Q I want you, Mr. Cardinale, to answer anything freely to my questions that is in your mind, whether you told it to



Mr. O'Malley or not. I raised very few objections to your testimony, I want the whole of it, and if you have not given the whole of it to us about Joseph Cohen, or anybody else, give it to us. A I am only too glad to tell you.

Q I want the whole story. A One day I got suspicious, in our book a page was missing, a duplicate page, and I figured out what the butcher bought that morning, and I told Joe Sarro, "Did you deliver any chickens to this butcher in 100th street?" He said, "I don't think so, anyhow we can go there and find out." We were there one Sunday afternoon, or Friday afternoon, I couldn't place the day, we went up there, and he kind of played with me, he said, "I bought very little chickens off you, the rest I buy off Raff." He did not want to put me in the track of it, and so I tried to keep it in my mind and my stomach, I didn't say anything to David Jacobs, because I didn't catch him with the goods.

Q You didn't want to catch him? A I wanted to catch him with the goods.

THE COURT: He says, "I didn't catch him."

Q How long was that before you broke up? A Five or six months, about.

Q For five or six months before you sold out you had this thing in your mind? A Yes.

Q And in your heart? A Yes, sir, and in Joe Cohen's heart too.

Q Did you tell that to Joe? A Not that, I told him .

44-3246-1097

that his brother-in-law --

Q I know, but did you tell Joe about the missing page?

A No, sir.

Q Why? A Because I didn't want to say anything if I wasn't sure.

Q Weren't you sure? A I wasn't sure, because there was nobody to prove it.

Q Did you know that Joe was backing the business? A Yes.

Q And you looked upon Joe as a big hearted, honest sort of a fellow, didn't you? A Yes, sir, always.

Q You didn't think Joe would stand for anything like that, did you? A Maybe he would stand it because he was his brother-in-law, he would cover him up.

Q Joe wouldn't want to be done by his brother-in-law any more than you, would he? A I couldn't tell, I thought he--

Q Did that enter your mind, perhaps, that Joe was behind Jacobs? A I know once I wanted to get a strange book-keeper, which I told Miss Sullivan, and she is no Italian either --

Q I know all about Miss Sullivan, I have known her longer than you. A I told her I couldn't see why we couldn't get a young girl to keep my books, and she said why don't you try to get one, and I said, "David Jacobs don't want to pay eight or ten dollars a week when we pay only five dollars a week and have the books looked after just the same by this Joe Spencer and Krakauer." I wasn't the boss to

say who we would have for bookkeeper.

Q And that made you a little sore? A Yes, but I kept it to myself.

Q You were the originator of the business and you couldn't even have the say as to the bookkeeper? A No, sir, they would say they was the boss.

Q You held that in your mind against Joe? A Yes, not so much against Joe, I thought Joe was a straight fellow with me always.

Q But you had your suspicions? A Very little against Joe Cohen.

Q Didn't you say a few minutes ago you had a suspicion against Joe? A I wasn't sure about it.

Q You were thinking about it? A In myself.

Q When did it come to a final wind up and you got only \$1125 for all your interest, and that you couldn't keep, -- remember didn't you ~~keep~~ all about that bookkeeper and all about that missing page, and all about the way you thought Jacobs had swindled you? A Yes, sir.

Q You had that in your mind, didn't you? A Yes, sir.

Q And you didn't like Jacobs for that, did you? A No, sir, I had to show him I liked him in a business way.

Q But you didn't like the man who had swindled you that way? A No, sir, but I don't tell anybody.

Q And you had your doubts about Joe Cohen? A Very little.

Q Well, you had a little? A Yes, sir.

Q Of course you wouldn't trust your immortal life in the hands of a swindler, would you? A Not David Jacobs.

Q You wouldn't trust your life in the hands of a swindler, would you? A I mean not David Jacobs.

Q If David Jacobs was a swindler, you wouldn't trust your life with him, would you? A In a business way.

Q You wouldn't put your neck in his control, would you?

A Well, not much, I used to give him a little confidence through his brother-in-law.

Q You wouldn't take him into partnership to kill a man and take the chance of his squealing on you, would you?

A No, sir.

Q And you never did, did you? A No, sir.

Q You never took him in with this secret about killing Baff, did you? A Yes, sir, David Jacobs knew it.

Q Do you mean to say that you risked yourself in a conspiracy to kill Baff with this man that you believed had swindled you in the chicken business, do you mean that?

A I wasn't sure he swindled me, I had it in my mind.

Q When did you come to the conclusion that he didn't swindle you?

MR. O'MALLEY: I object.

THE COURT: He didn't testify that he ever came to that conclusion.



Q Did you ever come to the conclusion that he didn't swindle you? A He did swindle me.

Q He did? A He did, in a money way.

Q That was money you needed to feed your two children, didn't you? A Yes, because I was working for it, and I risked my money.

Q When you went out from that chicken business with only the \$50 in your pocket -- A And a few more dollars.

Q And a few more dollars, shall we let it go at this, that you had a ~~bitter~~ bitter feeling against Jacobs? A I didn't have much feeling against Jacobs, I didn't think much of it.

Q Then, Mr. Cardinale, in your chicken venture, an Italian trying to break into the kosher chicken market in your chicken business, you were up against a crooked partner, a doubtful backer, a dubious backer, -- well, you don't understand that, -- I say, a crooked partner -- I will change my question. You were up against a crooked partner and up against a business rival who conducted a crooked business?

A No, sir, not on Joe, I didn't think that on Joe.

Q All right, you were up against a crooked partner?

A And that is all.

Q And you were up against a crooked business rival named Baff who hurt you and all the other chicken men? A Yes.

Q So when you closed out there to Abraham Cohen with only \$50 in your pocket, and some debts yet unpaid, you had a

perfectly kind feeling in your heart towards Jacobs and towards Baff, did you? A Towards Jacobs, I didn't have any feelings at all of murder or anything like that, but if I had any feeling against Baff, or any other people in business, I had it proved then, because they are the ones who put it in to me, I never knew Baff before.

Q You knew when he was underselling you, didn't you?

A Yes, when he was on 80th street.

Q But he sold to butchers all along the line, didn't he?

A I didn't do much trade with the butchers then.

Q When he was on 109th street you knew him? A Yes, sir.

Q You knew that he undersold you, didn't you, you couldn't possibly match his prices, could you? A No.

Q If you matched his prices, you would be giving the chickens away to the customers, wouldn't you? A Yes.

Q And paying for the privilege of giving them away? A Yes.

Q It wasn't necessary for Joseph Cohen to tell you that, was it? A That is how --

Q Didn't your pocket tell you that?

MR. O'MALLEY: Let him answer.

THE COURT: Give him a chance to answer.

Q (Question repeated)

BY THE COURT:

Q Answer that, was it necessary for Joseph Cohen to tell you that about Baff? A I guess so, he was long enough in business to know who Baff was and how he was.

Q You knew, didn't you? A I knew it through him.

Q You knew it when Baff undersold you, didn't you? A Yes, I knew that when David Jacobs come in as a partner.

Q You knew when Baff was selling chickens for less than you could sell them, didn't you? A Yes.

Q Didn't Baff advertise in the newspapers quoting prices that you couldn't meet? A Yes, sir, every week.

Q Every week in the newspapers? A Yes, sir.

Q Joe Cohen didn't tell you that, did he? A He used to tell me that Baff had them ideas because Baff was down at the market and he said, "Wait and see the advertisement in the newspapers this week."

Q You read it in the newspapers, didn't you? A I didn't read it, I used to hear it, it come up before it was in the newspapers.

Q You read it in the newspapers, didn't you? A I didn't read the Jewish paper, if he put it in the Italian paper maybe I read about it.

Q Didn't anybody read it to you? A The Rabbi every time used to get the Jewish paper, he used to tell me.

Q The Rabbi was right there in your market? A Yes, sir.

Q And he would read it to you from the newspaper? A Yes. Even the butchers used to say, "How can I pay you at that price when Baff sells it for this price?" I say, "They cost me so much, I can't give it to you at that price."

Q Do you know a man named Joseph Herbert? A Not the

name, maybe if I see him I might know him.

Q I refer to Joseph Herbert who was employed at Kossar & Company, chicken merchants. A I might know him if I see him.

Q Do you speak Jewish? A Yes, sir.

Q I want to call your attention to a time in the fall of 1914, when Mr. Herbert called at your place of business and asked you for a duck that had been left there for him. A I don't recall it, maybe he did, but I don't recall it.

Q I am trying to recall this to your mind as well as I can. Didn't you take Mr. Herbert over to Cohen & Simon's place of business to get a duck? (No answer)

BY THE COURT:

Q Do you remember that? A No, sir.

BY MR. MOSS:

Q Don't you remember this man calling upon you and saying a duck which had been given to him in New Jersey had been taken up to your market to be called for, and he asked for it, and by some mistake it had been sold, and you took him over to the market of Cohen & Simon, which you have so many times mentioned, to get a duck there for him? A No, sir. The first thing, I never knew the man, ~~why~~ how should I take him?

Q Did this man -- he may come to your mind while I question you -- did he ask you how business was? A If I don't recall him, how can I --



Q Don't ask me questions, just answer mine. Did you reply, "Business is rotten, Baff has ruined my business, I will fix him so he won't hurt anybody else." A I don't think I am so foolish --

THE COURT: No, no, the answer is no. Strike out the rest.

THE WITNESS: No.

Q I asked you if you said that? A No, sir.

Q Did you say that, or any words like it? A No, sir.

Q Did you say that, or any words like it, to anybody?

A No.

Q Now, you are taking a minute to think, which is right. Did you say that, or any words like it, to anybody? A Of course, to Joe Cohen.

Q You said it to Joe Cohen? A Not the same words.

Q But substantially the same? A I say, "Well, he is going to get it," but not that he was going to get it from me, because they had the idea before I was in business, to kill him, I believe.

Q Did you say that to anybody besides Joe Cohen? (No answer)

BY THE COURT:

Q That you would kill him? A No, sir, -- maybe I went over and told it to Willie Simon.

BY MR. MOSS:

Q Maybe you told Will Simon? A I said I told Willie

Simon what Joe used to tell me.

Q That doesn't answer my question. I repeat it again: "Business is rotten, Baff has ruined my business. I will fix him so he won't hurt anybody else?" You say you might have told something like that to Joe? (No answer)

BY THE COURT:

Q Did you say it to Joe? A No, sir, not that way.

BY MR. MOSS:

Q Did you tell him anything like that? A No, sir.

Q Didn't you say a minute ago you might have told him something like that? A Maybe I did.

Q What, maybe, did you tell him? A I told him the fellows were going down to kill him, the way he used to tell me, that was away after.

BY THE COURT:

Q Those were the fellows that you got at his request, those were the fellows from Harlem that you speak of? A Yes.

BY MR. MOSS:

Q If you didn't tell it to Joe -- did you tell it to Joe, Jacobs, Will<sup>C</sup> Simon and Louis? A Not them words, because I used to tell them what was going on all the time, that is all.

Q Did you tell them something like that? A No.

Q Did you tell anybody that Baff had ruined your business? A No, sir.

Q I will ask you if you ever spoke to anybody upon the

subject of killing Joe Cohen? A Joe Cohen?

Q Yes.

THE COURT: Did you, yes or no?

THE WITNESS: No, sir.

Q Did you speak to anybody about killing Joe Cohen at the same time of stating that you thought Jacobs had been stealing chickens out of your place? A I never dreamt of anything like that.

Q I didn't ask you what you had dreamt --

BY THE COURT:

Q Did you say that to anybody? A No, sir.

BY MR. MOSS:

Q Now, Mr. Cardinale, do you know a man named Gagliano?

A Yes, sir.

Q Who is Gagliano? A There are five or six brothers, they are brothers to my father-in-law.

Q Who is Angelo Gagliano? A He is my father-in-law's brother, he had a laundry, Columbus West Wash Laundry.

Q Is he one of the defendants in this case charged with the murder of Baff? A Not that I know.

MR. MOSS: Is he not, Mr. O'Malley?

MR. O'MALLEY: He is indicted.

MR. MOSS: He is under indictment.

Q Is this the first time you knew that a relative of yours was under indictment? A I heard he was in trouble, I didn't know what it was about.

243 308

Q Is that all you heard about your relative, that he was under indictment and you didn't know what it was for? A Yes.

Q Is my statement in your presence the first that you knew that your relative, Galliano, was indicted for murder?

(No answer)

BY THE COURT:

Q Is this the first you knew that he was indicted? A No, sir, I knew it before.

BY MR. MOSS:

Q When did you know it? A I say five months ago.

Q Why didn't you tell me when I asked you? A I know very little except what my wife told me.

Q It is very little, but enough to know that he is indicted for this murder? A I know he was in trouble for this, but I don't know whether he was indicted for murder or for what.

Q You don't know whether he is indicted for murder now, or for what? A No, sir, I know that he is mixed in with this trouble, that is the way I heard it, from my wife, but he don't know nothing about it through me.

Q Didn't you ever see Galliano in Grecco's saloon? A Yes.

Q Didn't you ever see Galliano in Grecco's saloon when you were talking about this Eaff business? A No, sir.

Q You never mentioned his name in your testimony, did you? A No, sir.

Q You never put him in at a single meeting, did you?

A No, sir, because --



Q You never put him in any meeting in Grecco's saloon?

A Never had any.

Q The District Attorney who is to prosecute Mr. Gagliano never asked you a question about him, did he? A He asked many questions.

Q About Gagliano? A Yes, sir. He said, "Do you know Gagliano, did you ever have anything to do with him?"

THE COURT: Mr. Moss means since you have been on the witness stand.

THE WITNESS: No, sir.

Q He did ask you privately? A Yes.

Q And you told him you never saw him there or had anything to do with him? A I told him I used to see him, but never had any business with him.

Q You told him he had nothing to do with this murder?

A Yes.

Q Is that true? A Yes, sir, nothing but the truth.

Q Wasn't Gagliano up there in Grecco's saloon meeting with you and both the Grecco Brothers, and Rina, and Arichiello the Zaffarano Brothers, Russo, Di Paolo, -- do you say you never saw him there with any of those men? A Yes, sir.

Q Where did he live? A Who?

Q Gagliano? A He lived in 107th street, I don't know the number.

Q Right across from this saloon, wasn't it? A I think it is in the same side of this saloon.

Q Right over the saloon? A No, sir.

Q You can't imagine upon what ground the grand jury should have indicted Angelo G<sup>8</sup>aliano for this crime, can you?

A (No answer.)

BY THE COURT:

Q Do you know upon what ground the Grand Jury indicted Galiano? A No, sir, I don't know.

BY MR. MOSS:

Q Didn't you come here definitely, Mr Cardinale, to hang the Jews and save the Italians? A No, sir, I came here as a witness.

Q Did you ever say that? A What?

Q That you were going to hang the Jews and save the Italians?

A No, sir, I ain't so foolish to say a thing like that.

Q Did you ever say that to Daniel Jones, the negro? A No.

Q Did you ever say anything like that in his presence? A No.

Q Now, one of the men that you met up there at the Greco saloon--

MR. MOSS: I withdraw that.

Q Wasn't G<sup>8</sup>aliano a partner of Greco? A I don't know; I knew that Greco was bartender that worked in there.

Q Did you see G<sup>8</sup>aliano working with Greco in the bar?

A No, sir, I never saw G<sup>8</sup>aliano working in the bar.

Q Did you ever see him in the saloon? A Yes, sir.

Q What did you see him doing? A Just come in and take a drink, and look after the books, I used to see him a couple of

imes with books in his hand.

Q Did you ever see him in his home? A No, sir.

Q Did you ever see him outside of that saloon? A No,--  
I seen him on the sidewalk walking.

Q But any relations that you had with Gagliano, did you  
visit him? A No, sir.

Q Did he ever go to your house? A No, sir.

Q Does your wife know him? A Yes, sir, he is an uncle of  
hers.

Q But you never did? A I never did.

Q Did you first meet him in this country or Italy? A This  
country, after I was going to marry.

Q When you came to this country didn't you call on Gagliano  
soon? A No, sir.

Q How soon did you see Gagliano after you came to this country?  
A About nine years ago.

Q Where was he living then? A I ain't sure <sup>that</sup> he was living  
in 107th street, I couldn't say that.

Q Now, Arichiello, whom we have mentioned, was an employee of  
Gagliano, wasn't he? A I don't know.

Q Didn't you know that Arichiello worked for Gagliano?

A No, sir, I used to mind my own business.

Q You knew Arichiello, didnt you? A I used to see him once  
in a while around there.

Q Didn't you see him with Gagliano? A No, sir.

Q Did you ever see him driving the murder wagon down to

West Washington Market? A Yes, sir.

Q That is Arichiello I mean. A That is the one I mean too.  
thinking

Q Now, that I know you are speaking of the same man that I  
am ~~thinking~~ speaking about, I will ask you again, didn't  
Arichiello work for Gagliano? A I don't know that.

Q Didn't Gagliano have a laundry? A Yes, sir.

Q Didn't Arichiello work in that laundry? A I don't know.

Q Do you mean to say you never knew Arichiello worked there,  
and testified that he worked there? A I mean it, I didn't  
know it.

Q Did you ever try to find out what happened on the trial of  
Arichiello? A No, sir.

Q You didn't care? A No, sir.

BY THE COURT:

Q Where were you at that time, in this country or Italy?

A I was in Italy.

BY MR. MOSS:

Q You were in Italy hiding from this murder, weren't you?

A I was in Italy, not hiding, I was in Italy to save my  
country, to serve my country.

Q But the reason you went to serve your country was to get  
away from this murder, wasn't it? A No, sir, because I was 20  
years old, I went over to the Italian consul--

Q Wasn't it partly patriotism and partly fear? A May be  
some of it, not the whole thing.

Q Do you remember what you testified to for Mr O'Malley a

little while ago? A Yes, sir.

Q You were thinking about this case while you were in Italy, weren't you? A Once in a while.

Q You were wondering what was happening over here, weren't you? A Not so much.

Q You say they told you that the detectives were following everybody? A Yes, sir.

Q And they were going to get money for your family, to take care of them? A Yes, sir.

Q Do you mean to say you were only thinking once in a while, while you were over there, about this murder? You expected to come back in a year, didn't you? A Yes, sir.

Q You expected to come back to New York and live, didn't you? A Yes, sir.

Q You were in hopes that this whole thing would blow over in that time? A No, but --

Q You hoped so? A Yes.

Q And you were anxious to know what was happening while you were away? A I was anxious to know, but I couldn't find it out from anybody. I wouldn't write to anybody, I wouldn't let anybody know it.

Q Was that because you were careful? A Yes, sir.

Q Didn't even Joe Cohen write you about it? A No, sir.

Q Or Jake or David, or any of them? A Nobody, no, sir.

Q Didn't you know that Arichello was tried and convicted



as one of the gunmen who shot Mr Baff? A Yes, I knew that when I was in jail, about four and a half or three and a half months, Mr Black came over to Italy and told me.

BY THE COURT:

Q In Italy? A Yes, sir.

BY MR. MOSS:

Q I am trying to get the state of your mind--

BY MR. O'MALLEY:

Q Mr Black, the assistant district attorney, came over to see you? A Yes, sir.

BY THE COURT:

Q He told you about this man's conviction? A Yes, sir.

BY MR. MOSS:

Q Did he tell you that Arichiello had confessed that he shot Baff? A Yes, sir.

Q And didn't he tell you that DiPaolo testified against him? A Yes, sir.

Q Isn't it one of your purposes while you are a witness here to try to save Arichiello? A ~~That's~~ You know that I am trying to save Arichiello, because I am sure that that man didn't kill Baff.

Q Now, Mr Black told you that he confessed to killing Baff? A Yes, sir.

Q And he told you that on his confession he had been convicted by the jury in this court? A I didn't know.

Q He told you that, didn't he? A Yes, sir.

Q And he told you that Di Paolo had sworn against him?

A Yes, sir.

Q And you say you know he didn't do the shooting? A Yes, sir.

Q Is that because you were there at the time of the shooting?

A I wasn't there, I was in Charlie Hawk's telephone office.

Q Mr. Cardinale, aren't you the man that sent that telephone in to Baff's office? A Right there--

BY THE COURT:

Q No, answer the question. A No, sir, I didn't know his telephone number.

BY MR. MOSS:

Q Did Mr. Black tell you that Arichiello had confessed that you sent the telephone message to Baff? A I don't recall that.

Q Did Mr. Black tell you that Mr. Ferrara had been convicted?

A Yes, sir.

Q Did he tell you that Mr. Ferrara confessed that you sent the telephone message to Baff? A I don't recall it, he didn't tell me everything.

Q Did it come to your knowledge, and haven't you it in your mind as you sit there, that these men whose names you have mentioned in your testimony, confessed to the district attorney and the police that they participated in the murder, and that you sent the telephone in to Baff? A I didn't.

Q You say you didn't, but didn't you hear that they said so? A Yes, I heard it from Mr. Black.

Q You say they are mistaken? A May be they are.

Q Now, you say you know Arichiello didn't do it. Can you explain why Arichiello should have confessed that he did it, and you know he did not? A No, sir, I wasn't present when he confessed.

Q Now, isn't it your purpose as a witness in this case to hang the Jews and save the Italians? A No, sir.

Q Isn't it your purpose to endeavor to get a new trial for Arichiello and save him? A No, sir.

Q Don't you want him to have a new trial? A I don't care if he does or not.

Q Don't you want him saved? A The only thing, I don't like to see an innocent man go to the chair.

Q I will ask you again, wasn't Arichiello an employee of your uncle in that laundry? A I don't know.

Q You never heard of it? A No, sir.

Q Didn't you know that that testimony was given in the trial of Archiello and also Ferrara? A I didn't read the testimony.

Q Have you tried to find out about it? A No, sir, I tried to find out my own business.

Q Did you ever ask your uncle if Arichiello worked for him? A I never seen my uncle.

Q Your uncle kept away from you? A I don't know, he didn't come down to see me.

Q Do you know where he is? A I guess he is home.

BY THE COURT:

Q Do you know where he is? A No, sir.

BY MR. MOSS:

Q Is he out on bail, do you know? A If I aint mistaken, he is, I aint sure, because I didn't see him.

Q If you have any information on that subject please give it to us, I want to get the state of your mind, have you been informed that he is out on bail, Gagliano? A The only thing is I heard it from my wife that he was arrested and is out on bail, that is all I can tell you.

Q Now, I want you to still keep this Arichiello matter in your mind. Wasn't it arranged in your presence, Mr Cardinale, in Greco's saloon, that you should telephone in order to get Baff out of his store? A No, sir.

Q Did you know Tom Rina? A I guess I did, yes, sir.

Q At the time you were preparing for the actual killing of Baff, didn't you go down in the automobile driven by Ferrara together with Arichiello and Tom Rina and Greco, and others, all in the same automobile? A No, sir.

Q Haven't you been told by Mr Black that Arichiello confessed that you did? A May be he did, but I don't recall it.

Q Now, did Mr Black tell you that Arichiello had confessed that after the shooting you got into the automobile along with him, and those I have mentioned,-- that doesn't include the name of Gagliano? A I don't recall it.

Q That is the best answer you can give? A Yes, sir.

Q Did any one else tell you that Arichiello had so confessed? A One of the officers.

Q What did you say to the officer when he told you that Arichiello so confessed? A (No answer)

BY THE COURT:

Q What did you tell the officer? A You want me to answer?

Q Yes. A That was before I made the statement. I made the statement the 20th of December, and I didn't want to give no information at all of anything, because I didn't say I was there or wasn't.

Q You have just testified that the officer told you that Arichiello had confessed that you rode down in the automobile, or rode away in the automobile, after the shooting. What did you say to the officer when he told you that? A I didn't say anything to the officer. The only thing is, I put a smile on my face, that is all, I wouldn't give them any information.

BY MR. MOSS:

Q Now, did the district attorney, or did the officer, tell you that Ferrara, the chauffeur, who was convicted of murder, as the chauffeur of the car, confessed that in the car which he drove were you, Arichiello, Rina, DiPaolo, and the others, did he tell you that Ferrara so said? A I don't recall it.

Q Did any one tell you that not only Arichiello, but Ferrara, the chauffeur, had so confessed? A The only thing I heard from the officer was that Arichiello confessed that he shot Baff.

BY THE COURT: Q But did he tell you anything about your having ridden in the automobile, did the officer say his confess-



ion involved you? A I don't recall that.

243

BY MR. MOSS:

Q You talked with Mr O'Malley about your testimony, didn't you? A Yes, sir.

Q You gave him the story about which he has examined you?

A Yes, sir.

Q Didn't Mr O'Malley, in his preparation of this case, tell you that Arichiello and Ferrara, who had been convicted of the murder, had confessed that you were in the car, that you sent the telephone message and that you returned in the car from the murder, didn't he tell you that?

THE COURT: Mr O'Malley.

Q Did he tell you that? A Yes, sir, before the statement, and no answer I give.

Q Why did you refuse to make an answer? A I said, "I don't know nothing about it."

Q How long did you keep on saying that you knew nothing about it? A Until the 20th of December.

Q You told him something the 20th of December? A I made the full statement.

Q How long had you been over here? A From the 28th or 27th of November.

Q And when Mr O'Malley called your attention to these confessions of the men who had been convicted for this murder in which they admitted their guilt, and brought you into it, what did you say to Mr O'Malley? A Mr O'Malley didn't say that

to me. He said, "Tony, make a full statement, we don't want nothing else but the truth. " And when I was ready, I made the statement the way I knew it, and that is all.

Q I well believe that, as I know Mr O'Malley, but didn't Mr O'Malley ask you to explain why it was that these men made the statements which you deny now? A No, sir, that is up to him to find out.

Q Didn't he ask you to explain it? A I won't answer them questions.

Q Do you mean to say that he neglected to ask you to explain why these two men convicted made those statements?

MR. O'MALLEY: I object to that.

THE COURT: Objection sustained.

Q Did Mr O'Malley tell you that those confessions had been made to him and to District Attorney Swann personally? A No.

Q Did you know that Mr Arichiello, in making his confession, had picked up the revolver in his left hand, and showed how he shot Raff? A No, sir, they didn't tell me all that.

Q Did you never know that? A No, sir.

Q Did you never know that that was in Arichiello's confession?

A Yes, I know it lately.

Q When did you first know that Arichiello took the pistol up in his left hand, and showed how he did it? A (No answer)

BY THE COURT:

Q When did you first hear that? A While I was in jail in

BY MR. MOSS:

Q Who told you that? A I heard that from my counsel.

Q Was anybody else present telling you that? A No, sir.

Q Only your counsel? A Yes, sir, and the officer.

Q Then you have had the advice of counsel right along, have you? A I didn't know that --

Q You have had advice of counsel sometimes? A Yes, sir.

Q And he has explained to you what Arichiello and Ferrara testified to and confessed to? A No, he told me, he says, "Tony, did you"--

Q Has he told you about those two men and what they said? A He told me, "Tony, did you make a true statement?" I said, "Yes, sir, nothing else but the truth." He said, "I don'tbunderstand, this is mixed up." I said, "Anyhow, I don't want to know nothing." I talked to my counsel, I said, "The only thing, I made my statement, and I am willing to back it up in every way."

Q Did he tell you when Arichiello made the confession to his shooting Baff with the pistol in his left hand, did he tell you that Arichiello fixed a chair in the district attorney's office to show the position of Baff, show how Baff was standing? A No.

MR. O'MALLEY: I object to that.

THE COURT: The answer is no.

Q Then you were up there in Greco's saloon after the mur-

der, did Arichiello hand you a pistol? A He never did.

Q Did you know that Arichiello had confessed that he handed you a pistol up there? A No, sir.

Q Now, I want your mind to be refreshed, if it may be, by reference to Arichiello's statement. Did anybody tell you that Arichiello had confessed that he handed the pistol that he used to you? A No, sir.

Q And nothing, the questions I have asked you, brings to your mind the fact that he did give you the pistol? A No, sir. I didn't want to know so much, because I had enough trouble in my mind.

BY THE COURT:

Q The question is whether you did receive the pistol from this man? A No, sir.

BY MR. MOSS:

Q Did you ever tell Ippolito Greco that you did phone for Baff? A I never did, because I never did.

Q Didn't you phone for Baff from a saloon in 13th avenue and Loew street? A No, sir, I told you I didn't know Baff's number.

Q Did any one tell you, of the persons you have mentioned, that Arichiello confessed that you did tell Greco that in his presence? A No, sir.

Q Haven't you been informed in any way at any time that Arichiello stated that you told Greco you had phoned? A No.

Q And that you phoned in order to trap him, in order to get

him out of the place?

MR. BECKER: I object to that.

Objection sustained.

MR. BECKER: On the ground that it was merely--

THE COURT: Objection sustained.

Q Didn't you have a pistol when you went down to West Washington Market that day? A I never had one.

Q Never in your life? A I never did.

Q You never owned a pistol? A I never did.

Q What did you raise your hand for? A Because I swear to my children--

THE COURT: To emphasize it.

Q When you went down to the market on the day of the murder what time did you start? A About ten or eleven o'clock.

Q In the morning? A Yes, sir.

Q From what place did you start? A From 105th street, Third avenue.

Q Who went with you? A All alone.

Q Did you ask any one to go with you? A No, sir.

Q Did you go down entirely alone? A Yes, sir.

Q When you returned home who came with you? A Nobody, with one turkey.

Q Did you go down to the market entirely alone? A Yes, sir, with one turkey, that is who I had with me.

Q I am speaking of people, Mr Cardinale? A No, sir, all alone.



Q Now, in your detail of the numerous things that Joe, Jacobs, Graff, William Simons and the rest of them said to you, haven't you omitted one matter, haven't you omitted one thing that was done, one deed of violence? A I didn't get that.

Q Haven't you omitted one act of violence in this story of the many things that were done? A I admitted everything that I said and what was done.

BY THE COURT:

Q Not admitted, but omitted, have you left out anything?

A May be I did, but I think I told the whole thing .

BY MR. MOSS:

Q You have told us about a fire being set in Newmark's place? A Yes, sir.

MR. MOSS: I would like to know the date of that again, Mr O'Malley.

MR. O'MALLEY: October 2nd, 1913.

Q What about the hold-up that occurred in Mr Newmark's place? A I don't know nothing about it.

Q You never heard about it? A Yes, sir, I heard about it down in the market.

Q When did you hear of it in the market? A I heard it the day that the trial was going on.

Q What trial? A The fellows that were caught, which they went in there and hauled them up.

Q That occurred in February 1914, didn't it? A I don't

h  
recall it.

243

Q Reference to the papers shows that it occurred in February 1914, the early part of 1914. What did you hear occurred in Mr Newmark's place? A I heard it from Joe Cohen down in the market.

Q I didn't ask you to run Joe Cohen into it, I asked you what you heard? A I heard that Baff and his son were at the trial, that is the only thing I heard, to convict them.

Q To convict who? A The fellows that held up the market at 109th street.

Q You said you heard from Cohen that Baff and his son were at the trial to convict some fellows that held up Newmark's market? A Yes, sir.

Q Do you know whether one of those persons who were being tried was Nicolo Asterino? A No, sir.

Q Or Giovanni Oliveri? A No, sir.

Q Or Pantonilli? A No, sir.

Q Or Dominick Vitro? A I never heard of him.

Q Or Antonio Appolito? A I never heard of it.

Q I am not asking you that, but did you know that those were the five men that were being tried? A No, sir.

Q Didn't you take any interest to know who were being tried?  
A No, it wasn't none of my business.

Q Now, this Nicolo Asterino, did you know such a person?

A No, sir.

Q Wasn't Nicolo Asterino a relative of yours? A No, sir, I

ain't got no relatives by that name.

243

Q Do you mean to say that this is the first time you ever heard of him? A Yes, sir.

Q I am asking you this question? A Yes, sir.

Q Even when you were told, as you say, about that hold-up, you didn't look to see who the persons were that were accused of holding him up? A No, sir.

Q Did you follow that case far enough to see what happened to the defendants? A No, sir.

Q Didn't Nicolo Asterino get a sentence of from seven to fourteen years? A I don't know.

MR. O'MALLEY: I object to this.

THE COURT: Objection sustained.

Q The question is wrong in form. Didn't you know, or learn, that the man got such a sentence? A No, sir.

MR. O'MALLEY: I object.

THE COURT: He says no.

Q When you talked about setting a fire in Newmark's place, did you remember this hold-up? A No, sir.

Q Had you forgotten it? A It was none of my business.

Q Didn't you say, "Why, this is the same place where that hold-up happened?" A No, sir.

Q Through the five Italian men? A I heard they held up the place in 108th street, that was the only place that was there.

Q When they talked to you about setting fire to it, didn't

you say, "That is the same place where those five Italian men were convicted?" A No, sir.

MR. O'MALLEY: The fire occurred in October, 1913, and the hold-up in February 1914.

Q Well, when the hold-up occurred,--I shall change the question. Did you remember that that was the place where the fire had happened? A No, sir.

Q Had you nothing in your mind in relation to it? A No, sir, never did.

Q Has your action in this trial, and your testimony, been affected by the fact that these five men were convicted for that hold-up, or any one of them? A This is the first time that I hear it, and the time Joe Cohen told me down in the market, I never thought of it after that.

Q What part of Italy do you come from,--are you a Sicilian?

A Yes, sir.

Q You have a god-mother, haven't you? A No, sir.

Q Over in Italy? A No.

Q Did you ever write a letter to a person addressing her as godmother? A No, sir, I never did.

Q Is there any lady over there in Italy to whom you have written? A No, sir.

Q At Montemaggiore, Belisite, Sicily? A No, sir.

Q Now, you remember some lady? A Yes, sir.

Q Did you write her a letter? A Yes,--that is, an uncle of mine, that he introduced me, may be, I did write a letter

long ago, I aint sure.

Q Can you read English print? A No, sir.

Q Then when you looked at that article in the newspaper, you didn't read anything? A If I held it in my hand a little while I understood the head of it.

BY THE COURT:

Q The headlines ? A Yes.

BY MR. MOSS:

Q If you can't read, how did you read the head lines? A I can read very little about my business, private.

Q Did you write this letter about this Baff case? A I never did.

BY THE COURT:

Q Did you write to any one in Italy about the Baff case?  
do  
A No, sir. When I ~~did~~ write anything I write it in the Italian language.

BY MR. MOSS:

Q Didn't you write this lady to the effect that while you were a soldier of the Fourth Regiment to serve your country, you were arrested on the charge of having murdered Mr Baff?

A To my godfather?

Q The lady? A I don't recall that.

Q Did you write it to the man, the godfather? A Yes, sir.

Q Did you write that, four months before the shooting of Mr Baff, you had wished to open another market in Brooklyn, but the neighbors didn't like it, and so you changed your idea? A No,



sir, I worked--

BY THE COURT:

Q Did you write that? A I don't recall it.

BY MR. MOSS:

Q Did you write ~~at~~ that at the time of the murder of Mr  
on  
Baff-- no, ~~ask~~ the day of the murder of Mr Baff, that you went to  
the market at half past three to buy four turkeys and you left  
the market about five o'clock?(No answer.)

BY THE COURT:

Q Did you write that? A May be I make that statement, to the  
Italian--

BY MR. MOSS:

Q I am asking about a letter, not a statement.

BY THE COURT:

Q Did you write that in a letter? A May be I did, that is  
before I made the statement.

Q Before you made the statement to Mr O'Malley?? A Yes, sir,  
may be I did.

BY MR. MOSS:

Q Did you write that soon after you left the market you  
went up to the other market on 110th street? A Yes, sir.

Q And the proprietor there told you that he had sold all the  
turkeys? A I ain't sure, but I think I did.

Q And that while you were there talking with this man  
about the turkeys, he received a message on the telephone that  
his cousin, Mr Baff, had been shot? A Yes, sir.

245

Q And that there were six or eight laborers there at that gentleman's place that could testify that you were there at the time? A Yes, sir.

Q That was true, wasn't it? A Nothing else but the truth.

Q And did you say that you had made that statement before the magistrate? A Yes, sir, in Italy.

Q And did you say on account of those facts, to take your unhappy state into her consideration? A I don't recall that.

Q And the state of your family? A I don't recall that.

Q Well, then, do you say that you made a similar statement to that to the magistrate, said the same thing to the magistrate?

A I guess I did.

Q When you were sworn? A I was never sworn.  
here,

Q Weren't you sworn? A Yes, but not on the other side.

Q You were not sworn before the magistrate? A No, sir, the only thing he told me was to tell him all about it.

Q Where was that magistrate? A In Catania.

Q In Italy? A Yes.

Q In Italy, in your country in Italy, when your magistrate asked you to tell him all about it, you have just told us all you told him? A Yes, sir.

Q What else did you tell the magistrate in Italy? A I told him I didn't know nothing about this murder, the only thing I knew after I went to 110th street I heard this Baff was killed, through the telephone. I told him I didn't know nothing, I said the same thing until I come here the 20th of December, and I made the real statement then.

Q That means you didn't say a word about Joe and Jacobs and the rest? A Yes, sir, I kept it as a man.

BY THE COURT:

Q Until the 20th of December? A Yes, sir.

Q And then you made the statement to Mr. O'Malley?

A Yes, sir, that is the first word they got out of me, the 20th of December.

Q That was after you were brought back from Italy?

A Yes, sir.

BY MR. MOSS:

Q Did you ever take a paper around to the chicken men in Harlem to get them to sign it? A Yes, sir.

Q A paper with an agreement to certain rates? A Yes, sir.

Q Was there a picture on that paper of a man with a pistol?

A Never was. Would I be so foolish as all that?

BY THE COURT: No, no, just answer the question.

THE WITNESS: No.

Q Now, the first thing you told us that you were asked to do was to have a bomb set at Mr. Baff's house? A Yes, sir.

Q That is the first thing you say you were asked to do?

A Yes.

Q And that you found a man to set the bomb, didn't you?

A Yes, sir.

Q And you say you made the price for it? A Yes, sir.

Q You asked for \$200.? A Joe Cohen told me it was \$200. for the job.

Q Did you ask for \$200. for the job? A I didn't ask.

Q You were willing to do it for \$200.? A Not that I was willing, I never done anything like that.

Q You were willing to have it done for \$200.? A Joe Cohen told me to see somebody to do it.

Q You were willing to do it? A Not that I was willing to do it.

Q Why did you do it? A I didn't do it, I spoke to somebody to do it.

Q And you don't say that Joe Cohen shot Baff? A No, sir.

Q He spoke to you? A Yes, sir.

Q Baff wouldn't have been shot but for you, would he?

A If they hadn't put up the proposition maybe it wouldn't come up.

Q You say in the same way you undertook to have that bomb set, didn't you? A Yes, sir.

Q You undertook to do it? A Yes, sir.

Q Was that the first bomb you ever attempted to set off?

A Yes, sir.

Q Was that the first time you ever saw a bomb? A Yes, sir.

Q Did you know it when you saw it? A No, sir, because it was heavy, it was wrapped up in a newspaper.

Q Did you carry it? A I didn't carry it, no, sir.

Q Didn't you say you did? A I never did.

Q Didn't you tell Mr. O'Malley that you did? A No, sir.

Q Didn't you go to the place where the bomb was prepared

and take it into your house? A No, sir, Ippolite Greco took it in, I was afraid of it.

Q The reason you were afraid was that you believed it was a bomb loaded for explosion? A I heard that the bomb was dangerous.

Q You knew it was a dangerous thing? A You hear that every day.

Q That is because there have been so many bombs set off in New York, isn't that so? A Yes, sir.

Q Now, you told Mr. O'Malley that when you had this talk with Joe Cohen about setting up the bomb, you said you had a driver that would do it, didn't you? A Yes, sir.

Q You knew exactly who was ready to do it, didn't you?

A No, after I spoke to him--

Q Joe Cohen didn't tell you who would do it, did he?

A No, sir.

Q You knew the man at once, didn't you? A I spoke to the driver, I didn't know that he was going to do it, but at the same time he said "I will do it".

BY THE COURT:

Q You mean your driver? A Yes, sir.

Q And he said he was willing to do it? A Yes, sir.

Q And then you reported that fact to Cohen, did you?

A Yes, sir.

BY MR. MOSS:

Q So when you knew there was a bomb to be set you were willing to go immediately to your own driver, weren't you? A Yes, sir.



Q How did you know that you had a driver who would do work of that kind? A Because Joe Cohen, and all of them, knew it before me, because at the time of the strike, -- I don't know if it was him or Willie Simon -- they offered Tony Nino and Joe Sorro to go around in an automobile to all of the market, and gave them \$5. a day, two or three days, and they knew him before me, to go around the markets and see that nobody kills the chickens, they were to be taken out of the market and they were put in an automobile and taken away, and he knew it before me that fellow was a bad fellow, I mean he would take a job. X

Q Do you mean to say that Joe knew that Sorro was a bomb man? A He knew enough to give him a job --

Q Answer me that, did you know that Joe Cohen knew that Sorro was a bomb man? A No, sir.

Q How did you know he was a bomb man? A I never knew it until after Joe Cohen told me to speak to somebody in Harlem, and my mind came to speak to this man.

Q You felt that you knew Sorro well enough to trust your own liberty to him in the matter of planting a bomb that was dangerous, is that so? A Yes, sir, but Joe Cohen knew this party before me, and then besides that I didn't have anything to do but the money matter, he had to do with Joe Sorro himself and Frank Burke and Tony Nino. If he didn't know that boy he wouldn't go and speak to him in the saloon with the three of them, he knew those three boys and that is why he took the chance.

Q Why then do you say that Joe Cohen didn't go direct to

Sorro? A I don't know the reason.

Q Why did he tell you to get your driver? A Maybe he  
did ~~say~~ so, I don't recall it.

Q You told me a little while ago that you had <sup>not</sup> known Sorro  
very long? A Yes, sir.

Q Did you think you had known him long enough to trust  
your liberty to him by bringing him into the bomb plot?

A I said it just before, the same thing.

Q You say that Joe Sorro was not present when the price  
was talked about? A No, sir.

Q How did he know what the price would be? A I told him  
what Joe Cohen told me.

Q Who else was brought into that bomb plot, the planting  
of the bomb? A You mean who got the job?

Q Yes? A Joe Sorro, Tony Nino and Frank Burke.

Q Did you see Tony Nino and Frank Burke? A Yes, sir.

Q After you spoke to Sorro? A Yes, sir.

Q And did you talk to them about the bomb? A No, sir.

Q Did you know that they were going to plant it? A No,  
sir, I knew it afterwards.

Q You left it entirely to them with Sorro? A Yes, sir.

Q Did you know that Burke had been to States Prison? A  
No, sir, I never knew them before.

Q Did you leave this matter then entirely in Sorro's hands  
to manage as he saw fit? A Yes, sir.

Q Now, you told Mr. O'Malley that you told Joe Cohen what you had done, and told him that your driver was going to get him an automobile and that he wanted \$35? A Yes, sir.

Q The driver asked you for \$35? A Not the driver, Joe Sorro.

Q Hadn't you told Joe Sorro there were \$200. in it?

A Yes, sir.

Q And he only asked you for \$35? A Because Joe Cohen didn't want to put up no money before.

Q Was this on account? A Yes, I took that chance myself.

Q Did you put up the \$35.? A Out of the drawer, yes, sir.

Q You put it up? A Yes, sir, out of the drawer.

Q Then you didn't have anything to do with the bomb, did you? A I had something to do.

Q You paid this man for that? A I only loaned them that money to get the automobile and get the bomb, which I got.

Q And you gave him the money to get the bomb? A Yes, sir, but Joe Cohen told me to give it to him from the drawer.

Q Well, whatever devilish thing Joe Cohen told you to do, you only did it, is that right? A Yes, sir.

Q You testified that you got the bomb from Ippolito Greco? A Yes, sir.

Q And this is the same Greco that you have been talking about all the time? A There are two of them.

Q Two of them, Ippolito and Joe? A Yes, sir.

Q And had the saloon at 227 East 107th street? A I don't

say they had the saloon.

243 357

Q They were there? A One of them was there, a bartender or something.

Q With Gagliano? A Yes, sir.

Q Just stop a minute, and tell us about this Greco's saloon. How long had you known Ippolito Greco? A I knew him about 2 years, maybe a year and a half.

Q What was he commonly called, what was his nickname?

A That is the only name I know -- Ippolito.

Q Didn't you know him as Master Paul? A Yes, sir, but I called him always Mr. Paul.

Q WHY was he called Master Paul? A I don't know.

Q Wasn't it because he was the head of a gang there? A I don't know, I know he was a man who used to do jobs.

Q Do jobs, crooked jobs? A Crooked jobs.

Q You knew him two years? A A year and a half or two years.

Q You mean not only crooked jobs but murder jobs? A I guess so.

Q And he had a stable known as the murder stable, didn't he? A I don't know that.

Q Where was that murder stable? A I don't know that there is a murder stable.

Q What Mr. O'Malley started to ask you about, where was that? A There are many stables up there.

Q I mean the murder stable that Mr. O'Malley asked you about? A The murder stable is 107th and 108th Street, between First and Second.

Q Whose stable was that? A I don't know. 243 328

Q Wasn't Greco interested in that stable? A I don't know.

Q Wasn't that the stable out of which the wagon came?

A Yes, sir.

Q And wasn't that the stable where G<sup>8</sup>aliano kept his wagons? A I used to see some of them wagons there.

Q G<sup>8</sup>aliano's laundry wagons were in that stable? A Yes, sir.

Q And that was the murder stable, as you heard it talked? only

A I ~~heard~~ heard it through Mr. O'Malley, I never heard that name before.

Q You don't know how he got it? A No.

Q You said you had known this Ippolito Greco, gang leader, as you described him, for a year and a half. How did you know him? A By going into the saloon and him coming over there in the market.

Q Where else did you see him? A And by people talking about him.

Q Where else did you see him? A I seen him down in the market.

Q How did you know he was a man who would do murder jobs?

A You can easily understand that when people speak about him.

Q When you went over there regularly and had your glass of beer, did you know that place? A Sometimes he gave me a glass of beer, and he treated Joe Cohen one night too.

Q You bring Joe Cohen in? A Sometimes when you go in



offer you a drink.

Why did you go in that saloon, living up there and know all about it? A I used to live in 116th street.

Q Why did you go to his saloon? A Because I happened to go there.

Q Weren't you a member of the gang? A I never was.

Q Wasn't he Master Paul to you? A No, sir.

Q Weren't you the so-called respectable member of the gang?

A No?

Q Yes? A I never did. Can you prove anything like that?

Q I am asking you, weren't you the man in that gang as one of the fellows that could have association with business men? A No, sir.

Q Can you give any reason why you continued to associate with him when you knew what his character was? A Because Joe Cohen put it up to me many times to go and see some of the good fellows, and I had an idea in my mind that this fellow was one of them fellows.

Q He didn't mention Greco to you, but you had mentioned him to him? A Yes.

Q He didn't know about that man until you told him? A No, sir.

Q Do you mean to tell us that you picked out Greco as desperate you could think of to do a desperate murder job? A No, I didn't know at first he would do a murder job.

Q You thought he would? A No, sir.

Q Then why did you think he would do a murder job. You thought he would? A No, sir.

Q Then why did you mention him? A I mentioned him, I thought he was a good fellow to do the job, that he was a proper man like, that is all.

Q Now, you have told us that you didn't carry the bomb?

A Yes, sir.

Q I think I wrote your testimony down correctly: "I went and got the bomb and took it to my wagon. I was alone. It was Ippolito Greco told me to come around with the wagon" -- I will read it: "Q. What did you tell Cohen? A. I told him that Sorro did not have any money and he wanted to have at least \$25. Q. What did Joe Cohen say, if anything? A. Go ahead and give it to him from the drawer. So I did give it to him, I gave him \$25. Q. You spoke about \$35.? A. And \$10., I went and got the bomb myself for him. Q. Where did you get the bomb? A. From Ippolito Greco. Q. Tell us where Ippolito Greco keeps his place of business? A. In 107th St. between 2nd and 3rd avenue. Q. Was it a saloon? A. Yes, sir. Q. 227 East 107th street? A. Yes, sir.

"BY THE COURT:

"Q. And you went there and got a bomb? A. Yes, sir.

Q. Where did you take the bomb? A. The next morning I took it there myself to the market. Q. Your own market? A. Yes, sir.

Q. After you took the bomb over there, did you see Joe Sorro that day? A. Yes, sir".

A Well, maybe it is so.

Q Do you remember --

MR. O'MALLEY: Let him explain.

THE COURT: Wait a minute. There is no question now.

Do you remember the Court asking you "And you went there and got the bomb? A. Yes, sir"? A I don't recall it.

Q And here a few minutes ago you told us you didn't handle it, that you were afraid of it? A Yes, sir, what I recall was this Ippolito Greco told me to go around with the wagon, and he put it on the wagon and drove the wagon himself in the yard and put it in the room.

Q You even described that bomb? A Yes, sir.

Q And showed to the Court that it had a fuse all around the bomb, and wrapped around with newspaper, and you carried it in a newspaper? A I didn't carry it, I seen it.

THE COURT: He says he saw it.

MR. MOSS: Well, he says so now.

Q Didn't you know at the time you carried that bomb and put it over in your place that it was a loaded bomb? A Of course I knew it.

Q And didn't you know that Frank Burke was in the job then?  
A No, sir.

Q Do you mean to say you had not asked Sorro who he was going to have in that job? A No, sir, because I gave him the job.

Q You say that this man you had known only a short time you trusted to get the man to take that bomb out of your place? A To do the job.

Q To take it out of your place? A To go and do the job.

Q But you knew it was going to be taken out of your place?

A Of course, it had to be brought over.

Q Did you take the risk that Sorro would get two strangers to help him take that bomb out of your place and plant it, and so connect you? A No, sir.

Q Didn't you think it was risky to allow Sorro to get strangers to do that? A It was risky for him.

Q And risky for you if you were connected with it? A For him.

Q Didn't you think you had any risk at all if anybody told on you? A Yes, Joe Sorro even had to risk it, and Joe Cohen, I couldn't tell, you got to take risks in this world.

Q Yes, you bring Joe in every time you get a chance --

THE COURT: Don't argue with him.

MR. MOSS: I move to strike it out as not responsive to my question.

THE COURT: Strike it out.

Q Well, you/~~sick~~<sup>even</sup> gave Joe Sorro a key to your place, didn't you? A Yes, sir.

Q So he could get to your place himself and take that bomb out? A Yes, sir.

Q Are you under indictment in that bomb case? A I guess so.

Q Don't you know? A Yes, sir.

BY THE COURT:

Q Do you know whether you are indicted for the bomb business? A Yes, sir.

BY MR. MOSS:

Q And Frank Burke is indicted? A I don't know about that.

Q Don't you know whether Frank Burke and Sorro and Nino are indicted? A I guess they are, but I don't know.

Q And that case has not been tried? A I don't know, I know I have never been tried yet.

Q Have you ever been to court over there in Kings' County?

A Never, this is my first time.

Q Has anything been said to you/~~about~~<sup>by</sup> any representative of the District Attorney's office about that case? A No, sir.

Q As to whether you were going to be tried, or what would happen to you over there? A No, sir.

Q Haven't you been told that if you told the truth here that representations would be made over there and consideration would be given you? A No, sir.

Q Do you understand my question? A Yes, sir.

Q Haven't you been told that if you were returned to this country at the close of the war and brought trial upon that case any mercy would be given you? A No, sir.

Q Now, the next thing was a Black Hand letter, you say?

A Yes, sir.

Q And if I have your testimony correctly in mind, you went to the same people about that Black Hand letter? A Yes, sir, because Joe Cohen told me to do it.

Q I didn't ask you that --

THE COURT: Answer the questions and then stop.



Q I think you said you saw that letter? A Yes, sir.

Q You read it, didn't you? A No, sir.

Q Do you know what was in it? A No, sir.

Q Didn't anybody tell you what was in it? A Told me it was made up to scare.

Q Didn't you tell Joe Cohen even what was in the letter?

A No, sir, I told him how I would send it over.

Q How was it sent over? A I told him that Joe Sorro wrote it out and then he gave it to Frank Burke, and Frank Burke copied it and then gave it back to Joe Sorro, and Joe Sorro showed it to me -- he didn't show it to me to read it, but the same time to take it over to Louis Cohen, and he said, "Tony, be careful". And I gave it back to Joe Sorro, and Joe Sorro give it back to Frank Burke, and Frank Burke had a girl out of the city --

BY THE COURT:

Q Wait a minute. The question is, how was it sent to Baff, do you know how it was sent? Was it sent by mail? A By mail, yes, sir.

MR. O'MALLEY: May I bring in Moe Rosenstein for identification?

THE COURT: Yes.

BY MR. O'MALLEY:

Q Is this the man that you have spoken of as Moe Rosenstein? A Yes, sir.

BY THE COURT:

Q This is the man you have spoken of as Chicken Moe? A Yes, sir.

MR. O'MALLEY: May it appear on the record that this is Moe Rosenstein?

THE COURT: Yes. Gentlemen, we will take a recess until 2:15, and please observe the caution I have given you heretofore.  
(Recess until 2:15)

(AFTER RECESS.)

MR. O'MALLEY: If it meets with the approval of your Honor, I have arranged with Mr. Moss to suspend for a moment with the present witness, so that I may call another witness.

THE COURT: Very well, proceed.

JOSEPH MARTINO, a witness called in behalf of the People,  
having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'MALLEY:

Q Where do you live? A 550 Park Street, Upper Montclair.

Q What is your business? A Chauffeur.

Q And in July, 1913, were you a chauffeur? A Yes, sir.

Q At that time did you own your own car? A Yes, sir.

Q Where did you have your stand? A 125th street and  
Lenox Avenue.

Q Do you recall an occasion in July 1913 of seeing a man  
whom you knew as Frank Burke? A Yes, sir.

Q Where did he see you? A On 125th street and Lenox  
Avenue.

Q Day time or evening? A Evening.

Q And did you talk with him? A Yes, sir.

Q What talk did you have with him? A About hiring a car.

Q Did he say he wanted a car? A Yes, sir.

Q Where did he say he wanted to go? A Arverne.

Q Long Island? A Yes, sir.

Q Did you see anybody else there that evening besides  
Frank Burke? A Yes, sir, afterwards, two more come over

afterwards, after we had fixed the price.

Q Two other fellows? A Yes, sir, two other fellows.

Q Have you seen Frank Burke around the building here today?

A Yes, sir, I have seen him today.

Q Did you see the other men around the building also?

A Yes, sir.

Q Today? A Yes, sir.

Q A tall fellow with a motorman's suit? A Yes, sir.

Q Do you remember whether he was one of the men with Frank Burke? A Yes, sir.

Q After you saw the three men, tell us what you did?

A Well, after they had all fixed the price up, Mr Frank Burke went back around the corner again, and he came back with the two men and said, that we were going to Arverne.

Q Was something said about the price before that? A Yes.

Q Was the price fixed? A Yes, sir.

Q How much was it? A \$15.00.

Q After those two fellows came from around the corner with Frank Burke, did they get in? A Yes, sir.

Q Where did you drive them? A 108th street and First Avenue, New York City-- in this city.

Q When you got there tell us what occurred? A As we were going down through 108th street east, when we got to First Avenue, they says, "Just pull to the right on the opposite side of the street because we want to get out a minute."

So I pulled over on the right side of the street which would be east of First Avenue facing south.

Q On the east side of First avenue facing south? A Yes.

Q That would be at the southeasterly corner of the two streets? A Yes, sir.

Q Now go ahead? A Two jumped off and Mr Frank Burke stood there.

Q Stayed with you? A Yes, sir. And then after a little while they both came back with a package.

Q Did you notice the way they went when they got off?

A They went around the corner. They had me in a place so that I could not tell where they went. They just went east on First Avenue.

Q On East 108th street? A Yes, sir.

THE COURT: And they came back with a package, you say?

THE WITNESS: They came back with a package.

Q Describe the package if you remember it? A Well, the package was wrapped up in plain newspaper, and they handed it to Burke inside of the car, and then they were talking about what they were going to do with it.

Q What did you hear them say? A They says, "Well, what will we do with this now." So one of them suggested "Let us put it right in the top." It has an envelope over it, so that they says, "We will put it right in here."

Q Was the top crushed down? A Yes, sir.

Q With the cover over it? A Yes, sir.

Q Proceed. A So they says, "We will put it in the trunk. And they put it there, and after that we were off, and we went south on First Avenue, and I don't know whether we went through 106th street or 107th street, either one of the two, west of First avenue, and then over the 58th street bridge, and then to Arverne.

Q What time did you get to Arverne? A Around 10 o'clock.

THE COURT: At night?

THE WITNESS: Yes, sir, at night.

Q Tell us what occurred then? A When we got there they said, "Come ahead right through until we see where this place is." So after going down quite a ways they says, "Well, we must be past it", and then we turned back. On turning back they did not seem to know which house it was, and so they says, "Well, we will stop in the restaurant here a minute, and we will find out in there". So I turned around again to the right, and we stopped in front of the restaurant door. So we went inside and had something to eat. So while we were in there they were asking this man for some annex of the hotel. So the man told them. Then after that we went up and down a few more times.

Q In the car? A In the car. Then we stopped, and the two men got out and went back.

Q What two men, do you remember? A Well, not Frank Burke. The others.

Q He stayed in the car-- Frank Burke stayed in the car?



A Yes, sir. He stayed downstairs and another fellow.

Q Proceed? A So they went back and after a few minutes they come right back to the car and they says, "That is the place". So they took the package and went away. So Frank Burke stayed with me in the car, and I was just going to shut off the engine, and he says, "No, let it run a while". I says, "All right". He says, "They will be right back". They came back after about five minutes without the package, and they got right in the car and they said, "Now, go like hell."

Q Which one said that? A I could not tell you which one, but I think it was the one that was sitting with me. I think it was Frank Burke that was sitting with me at the time. I asked them why. And he says, "We just set a bomb." Then we kept on going. And he says, "That will be all right, I will fix you up, I will give you \$5.00 more when I see you again." So we come to New York, and went across the bridge again, and then they started and stopped some place on 7th avenue--I don't recollect the place. And the two got off, and Frank Burke stayed in the car again.

Q Now you are sure Frank Burke stayed in the car? A I think he did, because he was sitting in the front seat. They got off and went some place and come right back, and then I left them at 102nd street and Second avenue, and that is where they paid me off.

Q About what time did you get back to the City? A Got back between 12 and one o'clock I think.

Q Do you remember at what place you stopped at the time they took the package out of the car? A No, sir.

Q Do you know whether or not you were near any hotel?

A Yes, we were near a hotel, a big hotel, but I don't know the name of it.

Q Did they mention where they had placed the bomb? A No.

Q Or did they mention the name of any man? A No, sir.

Q How much did you receive altogether? A \$20 altogether.

Q \$20.? A Yes, sir.

Q After that did you hear of any bomb? A Well, when he gave me the other \$5.00 that happened to be a few weeks later--

Q Who? A Frank Burke. I saw him a few weeks later and he gave me the \$5.00 and he said, "You are lucky, you are getting more than we are because", he says, "the thing did not go off."

Q Now, did you ever tell anybody about this trip that you made? A No, sir, nobody.

Q When was the first time you told about that? A When Detective Gorman picked me up.

Q About how long ago was that? A This was about almost a year and a half ago.

Q That would be 1916? A 1916.

Q Some time in the early part? A Yes, sir.

Q And when you were picked up, where were you taken?

A Taken to police headquarters and questioned by Capt Carey.

Q Were you ever over in Queens? A Yes, sir.

Q Now, after you were taken by Capt Carey to headquarters and

over to Queens County, did you go to the district attorney's office over there? A Yes, sir.

Q And do you remember seeing this man Sorro whom you saw here in the motorman's suit? A No, sir, he was not.

Q Do you remember seeing Frank Burke at that time? A Yes, sir, I saw him at that time.

Q Were you questioned by Capt. Carney at that time? A Yes.

MR. O'MALLEY: That is all.

CROSS EXAMINATION BY MR. MOSS:

Q How old are you? A Twenty seven.

Q How long have you lived in New York? A Since I was born.

Q How long-- 27 years? A 27 years.

Q How long have you been in the chauffeur business? A Since 1912.

Q What were you doing before that? A Working in a machine shop.

Q Have you ever been convicted of any offence? A No, sir.

Q How long did you know Frank Burke? A Well, I did not know him at all. It was just that I had seen him at times. Never knew him personally at all. Just knew him by the boys talking about him.

Q By the boys talking about him? A Yes, sir.

Q What boys? A I had a friend that lived right in the same building that he did.

Q Where was that? A On Second avenue.

Q Near what street? A 106th and 107th street.

Q Were you ever in his house? A No, sir.

Q Did you ever know a woman by the name of Gussie? A No.

Q Did you ever know any woman that was living with Burke?

A No, sir.

Q Did you ever know a woman that was working for Burke?

A No, sir.

Q Where did you used to see him? A Well, I would see him coming down and probably saying "Hello" to my friend that lived in that same house.

Q What did your friend say to you about him? A Nothing at all.

Q Didn't he tell you who he was? A Well, he used to work for the Gas Company at that time.

Q Did he tell you who he was? A Yes, sir. He told me he was Frank Burke.

Q Did he tell you what he was? A Yes, sir, he was a gas man at that time.

Q Did he tell you whether he had been to prison? A No.

Q Did you know whether he had been to prison? A No, sir.

Q Had he ever ridden in your car before? A No, sir.

Q When did you first meet Sorro? A That one night that they hired the car.

Q Then if I understand you correctly, you had no intimate acquaintance with either of those men? A No, sir.

Q And had never driven either of them before? A No, sir.

Q Did you ask them when they went out, where they were

going? A Yes, sir.

243

Q They told you just "Arverne" and nothing else? A Just Arverne.

Q Did you notice whether they were careful in the handling of that package? A Well, they did not handle it at all just at that time when they got in the car. They put it right in the top. They did not get a chance to handle it very much.

Q How did they lay that. Just show us how they laid that in the envelope? A Well, the top is just the top of the car you know--

Q Show us with your hands? A When you put the top down-- the top comes right down in the car right behind it this way (indicating), and then there is an envelope that goes right over it to keep it together. So when they were inside of the car all they had to do was that (indicating).

Q Then they carried it into the car with them? A Yes, sir.

Q Were you interested in that package? A No, sir, not at all.

Q Now, after they had taken the package out, these two men in Arverne, and come back without it, and they told you they had just laid a bomb, did you understand that the bomb was that package that they carried? A Yes, sir.

Q Did you know what a bomb was? A No, sir, never saw one.

Q Well, did you know what a bomb was for? A Yes, sir.

Q What? A Exploding.

Q What kind of an explosion? A Well, to break up things.



Q They had asked for the annex of a hotel, hadn't they?

A Yes, sir.

Q And they had disappeared out of your sight? A Yes, sir.

Q And they came back without this thing, and they told you they had just planted a bomb? A Yes, sir.

Q And that you thought was something that was intended to produce an explosion? A Yes, sir.

Q Had you ever seen a bomb before? A No, sir.

Q Had you ever carried anybody with a bomb before? A No, sir.

Q Had you ever been near the laying of a bomb before? A No.

Q Did you know whether or not that bomb was laid near a hotel? A Well, I don't know--I could not think just where it was laid at all.

Q Well, they had asked about a hotel. Did you think they might have laid that bomb at the hotel annex? A Yes, sir, I thought they might.

Q A hotel is a place where people sleep in the night time? A Yes, sir.

Q And for all you knew they had laid that bomb at a hotel inhabited by people who of course knew nothing about it? A Yes.

Q And having set a bomb, you expected an explosion, didn't you? A Yes, sir.

Q And you drove as fast as you could to get away? A Yes, sir.

Q So that you would not be around when the explosion took place? A Yes, sir.

Q Didn't you ask them what place they had put it? A No, sir.

Q Did you ask them why they had put it there? A No, sir.

Q Did you tell them they ought not to have done it? A No, sir.

Q Did you suggest to them that you would go back and take it away? A No, sir.

Q Did you undertake to inform any policeman or anybody else about it? A No, sir.

Q As far as you are concerned, you did nothing to prevent that bomb from exploding and blowing the hotel to pieces? A No.

Q And were you willing to do that? A No, sir.

THE COURT: Willing to do what?

Q Were you willing that that bomb should stay there and explode, causing people to be killed perhaps? A No, sir.

Q What did you do to prevent it? A Well, I could not do anything.

Q And when you got back to New York who did you tell about it? A No one.

Q Did you try to get off your car? A No, sir.

Q Did you try to get off your car or do anything, tell anybody? A No, sir.

Q Did you meet any policeman on the road? A No, sir, not that I know of.

Q Didn't your machine pass any policeman? A No, sir.

Q Didn't it pass a policeman at the bridge? A May be there may have been.

Q Did you look for a policeman? A No.

Q Did not call any one to aid you to arrest a person that

put a bomb there? A No.

Q Didn't you know Frank Burke was of bad character? A Yes.

Q Weren't you afraid of him because you knew him to be of bad character? A Yes, sir, that is the only reason.

Q That is the reason you did not do anything? A Yes, sir.

Q Knowing he was of bad character, why didn't you give information? A I could not because they would kill me if I gave anybody information. Anybody that would set a bomb would not stop for a minute to take my life away either.

Q But you did nothing to argue with them or to do anything whatever? A No, sir.

Q Weren't you part of the gang? A No, sir.

Q Didn't you know you were going out there to set a bomb?

*Here*  
A No, sir.

Q Hadn't you done it before? A No, sir.

Q Hadn't you carried hold-up men before? A No, sir.

Q What other persons have you told about this besides that detective? A No one.

Q Did you tell the district attorney? A Yes, sir.

Q Well, he is somebody, isn't he . Well, I am asking you who else besides that detective did you tell about it? A Capt Cary asked me about it. And then I told the district attorney Harris, I think his name is, in Long Island.

Q Morris. A Morris, yes. And Mr O'Malley.

Q Mr Morris is in Queens County? A Yes.

Q Were you indicted for anything? A No.

Q Any criminal charge against you at all? A No.

Q No criminal charge for aiding criminals to get away?

A No, sir.

Q Or for hiding them? A No, sir.

Q You are not expected to be charged by anybody with anything are you? A No, sir.

Q How is that? A I say, "No, sir."

Q Did you ever see a man named Musica? A No, sir.

Q Never heard of him? A No, sir.

MR. MOSS: That is all.

BY MR. KOPP:

Q Do you smoke opium? A No, sir.

Q Cocaine? A No, sir.

Q No narcotics. You are not a narcotic fiend? A No.

Q Do you know whether Burke was? A No, sir.

Q Did you ever see Burke on 14th street? A No, sir.

Q Did you know that he lives there? A No, sir.

Q How many times in all have you seen Burke in the vicinity of 14th street? A Never.

Q Before you carried him on that mission? A Never.

Q Have you ever been in an opium den in your life? A No.

Q Did you ever see opium? A No.

Q Did you ever see cocaine? A No, sir.

MR. KOPP: That is all.

REDIRECT EXAMINATION BY MR. O'MALLEY:

Q You are now regularly employed by a private family as a

chauffeur? A Yes, sir.

MR. O'WALLEY. That is all.

-----



ANTONIO CARDINALE resumed the stand.

CROSS EXAMINATION CONTINUED BY MR. MOSS:

Q Did you ever commit the crime of arson? A Never did.

Q Did you ever set a fire? A No, sir.

Q Did you ever take part in the setting of a fire? A Yes, sir, that one there in Neumark's.

Q Is that the only one you ever did? A Yes, sir.

Q The only one you ever took part in? A Yes, sir.

Q And you never would have done that if Joe Cohen had not asked you? A Of course not.

Q What is that? A Of course not.

Q Well, when Joe suggested to you the setting of the fire in Neumark's place, what did he ask you to do? A He told me to speak to somebody to put that place on fire because he was a bad man.

Q Didn't he tell you who to speak to? A No, sir.

Q Well, who thought of the man to be spoken to? A Of course I did.

Q And you thought of nobody better than your friend Ippolito Greco? A No, sir. That time Joe Sorro knew him.

Q You knew Greco was up to anything like that? A Yes, sir, sofar as that time he had never done anything.

Q He had never done anything up to that time?

THE COURT: You mean for yourself?

THE WITNESS: Yes, sir.

Q I am speaking about Greco. Greco had done things like

*Start*  
that before? A Yes, but not that I know of.

Q Why, he helped you with a bomb, didn't he? A Yes, sir.

MR. O'MALLEY: Including the bomb?

THE WITNESS: Including the bomb.

Q He had helped you with the bomb? A Yes, sir.

Q And with the black hand letter? A No, sir.

Q Nothing at all about that? A No, sir.

Q Did you tell Mr. Cohen that you would speak to Ippolito Greco. Did you tell him you would? A Yes, sir, after a while.

Q Well, did you speak to Ippolito Greco before you told Cohen about it? A That is after he told me I spoke to Greco.

Q You spoke to Ippolito Greco first? A But before that Joe Sorro knew him.

Q You spoke to Sorro first? A Yes, sir.

Q Sorro was your own driver? A Yes, sir.

Q Was he still your driver? A No, sir.

Q Wasn't he working for you then? A No, sir, I don't think so.

Q Where was he working?

MR. O'MALLEY: What time are you speaking of?

MR. MOSS: The time of the arson.

MR. O'MALLEY: The Neumark fire?

MR. MOSS: Yes. That is arson, isn't it?

Q Well, when Joe spoke to you about the fire you did not

tell him at once that you would get Ippolito Greco, did you? A No, sir.

Q You had to inquire of somebody first? A Joe Sorro.

Q And the first man you inquired of was Joe Sorro? A Sorro.

Q Wasn't Sorro working for you at that time? A I don't think so.

Q Where was he working? A I don't know. I did not go after that.

Q I know, but if you were asking Mr. Sorro to help you in making a fire, wouldn't you know where he worked and what he was doing? A Maybe he worked there, but I ain't sure of the date he worked there.

Q Was he working for ~~G~~<sup>X</sup>aliano then? A I don't think he ever worked for him.

Q Now, think a minute. Wasn't he working for you at that time? A Yes, sir.

Q Then what made you say that? A Because David Jacobs told him to do the job and he say "I ain't going to be a damn fool any more, I was a damn fool once".

Q But a minute ago when you were in doubt that he was working for you. What suddenly changed your testimony? A This is things that happened years ago.

Q Did you speak to Mr. O'Malley -- I mean did you see me speak to Mr. O'Malley just now? A Yes, sir.

Q Right in front of you? A Yes, sir. I did not hear him.

Q But you could read his lips. Didn't you read on Mr.

O'Malley's lips that you had testified to that? A No, sir.

You cannot read by lips.

Q You say it just come to you suddenly because you remembered Jacobs said something to you? A Yes, sir, because you told me to think it over.

Q Yes, I said that. Well, wasn't it Jacobs or Abe Or Joe or all four of them told you? A They knew about it after, but Joe told me first, and then I told David Jacobs that Joe had told me that, because Jacobs lived up town and Joe Cohen lived in Penn Street, Brooklyn.

Q But you told Jacobs about it? A No, sir.

Q Didn't you tell Abe Graff? A Yes, sir, after.

Q Now, we have it settled that Sorro was working for you at that time, have we? A Yes, sir.

Q Then you were willing immediately to go to your old driver to set the fire in Neumark's business place? A I was not the only one. David Jacobs --

Q I did not ask you that. I did not ask you about David Jacobs -- well, the whole of them --

THE COURT: I will ask counsel not to talk back to the witness.

Q What made you think that Sorro would commit the crime of arson for you? A Maybe because he done the job to place the bomb in Brooklyn, at Arverne, by Raff's home.

Q Well now, this was the Joe Sorro who had worked for the firm of Cardinale & Jacobs? A Yes, sir.

Q And who was associated with you every day. Isn't that so? A Yes, sir.

Q And when you asked Sorro to set that fire, to your mind wasn't it just the same thing as though you were setting it yourself? A Maybe it was, but I did not thought that.

Q Didn't you think so? A Maybe it was, I said, but I did not thought that.

Q Didn't you think it was just as guilty of you as though you set it yourself? A I did not think so at that time. Now I do.

Q Why didn't you think so then? A Well, maybe I was foolish then.

Q Now, having put this up to Sorro how did it get to Greco. Explain that? A Because he did not get the full amount when he put the bomb to Baff's home. David Jacobs told him if he wanted to do the job, and I understood that he said "No, I was a damn fool once, I am not going to be a damn fool again".

THE COURT: Sorro said that?

THE WITNESS: Yes, sir.

Q Did he say that to you? A No, but I had an idea that it was said -- I have heard it from David Jacobs.

THE COURT: Who told you that?

THE WITNESS: David Jacobs.

Q What did Sorro say to you? A Joe Sorro did not say anything to me.

Q Why, you saw him every day, didn't you? A Yes, sir.



Q And when you asked him to do that job didn't he say anything to you? A No, sir.

Q What did he answer when you asked him to do it? A I did not ask him.

Q Didn't you ask him? A No, sir. I did not have the courage to ask him.

Q Then you are simply telling that you understood that Sorro had been asked? A Yes, sir.

Q Well, did you ask Ippolito Greco? A That was after.

Q How is that? A Yes, sir.

Q You asked Greco. And that was because Sorro did not want to do it? A Did not want to do it.

Q Well, you wanted to have it done, didn't you? A Not me. Joe Cohen.

Q You wanted to have it done, didn't you? A Of course, yes, sir.

Q So that when you could not get one fellow to do it, you tried another, didn't you? A Yes, sir.

Q And when you spoke to Greco about it, what did you say to him? A I told him if he wanted to set that place on fire.

Q What did he say to you? A He said "All right, I will do the job".

Q And did you tell Greco how much would be paid for it?

A I thought he was --

Q I say, did you tell him that he would be paid for it?

A Yes, sir.

Q So that you dealt with Greco yourself? A Not myself. They were present too.

Q You asked him yourself to do it, didn't you? A Yes, sir, the first time.

Q Did you say on your direct examination that these defendants were present when you asked Ippolite Greco to do that? A Yes, sir. That was the second time when he come over to the market.

Q I am talking now about asking Mr. Greco to set that fire; and I understand you to say these defendants were present when you first asked Mr. Greco to set that fire.

Is that right? A The first time I spoke to Ippolite Greco.

Q I am not asking you about the first time? A Yes, sir, I spoke to him.

Q You spoke to him alone, did you? A Yes, sir.

Q And you told him you would pay him, did you? A Yes, sir, out of the business.

Q Out of your business? A Yes, sir. That is what Joe Cohen told me.

Q But you expected to take that money out of your business cash drawer? A Yes, sir.

Q Out of that unprofitable business? A Well, there was the orders.

Q Those were the orders? A Yes, sir.

THE COURT: Was Jacobs your partner at that time?

THE WITNESS: Yes, sir.

Q Did you have anything to do with getting the gasoline?

A No, sir.

Q Did you see the gasoline? A Yes, sir, the cans.

Q Where did you see it? A In my little room.

Q What is that? A In the little room there alongside of the market.

Q In your market? A Yes, sir.

Q Then you have the gasoline in your own place? A Yes, sir. Ippolito Greco brought it there.

Q How did it get out of your place? A Ippolito Greco took it out.

Q Did you go with Ippolito Greco when ~~xxx~~ he took it?

A No.

Q Did you give it to him? A No.

Q Did you tell him where he could get it? A Yes, sir. He put it there himself and he knew the place where to get it.

Q Didn't you see him get it? A Yes, sir, I see him taking them out.

Q What time of night was it when he took that gasoline out of your place? A About 9 or 10 o'clock; maybe before. I don't recall it.

Q How long was it after 9 or 10 o'clock that you actually saw the fire? A It was late.

Q How late? A Maybe after 11.

Q Then you went on the street and saw this place burn up, didn't you? A Yes, sir.

Q And you knew when you saw it burning up, that it was burning up from the gasoline that you had stored in your place? A Yes, sir.

Q And you knew you were going to pay for it out of your cash drawer? A Not out of my money.

Q You knew you were going to hand the money out from that cash drawer? A That was the order.

Q You knew you were going to do it? A Yes, sir.

Q And you saw the poor chickens running around? A Yes, sir.

Q And the horses? A Yes, sir.

Q Were any of them burned? A No horses.

Q Were there chickens burned? A Yes, sir.

Q How many? A I don't know.

Q Did you know whether any persons lived in that business place over night? A I know that no watchman was there, because Joe Cohen was already -- he had information from somebody that there was no more a watchman in there.

BY THE COURT:

Q Who told you that? A Joe Cohen. That is why I told before Ippolito Greco, and Ippolito Greco was to go there and set the fire.

Q You had to get information from Joe Cohen whose place of business was down town and who lived in Brooklyn, whether there was a watchman at that place? A Yes, sir.

Q Why, you were close up to it yourself, weren't you?

A Yes, sir, but I never go near the place --

243  
Q Never mind that. You were right up close to it? A Yes, sir.

Q You were right on the ground almost next door to it?

A Yes, sir.

Q How did you meet Joe Cohen to tell you there was no watchman? A Because I used to get all the information from him.

Q And you could go around yourself or send one of your workmen around the corner to see whether a watchman was staying there at night? A No, sir.

Q Why couldn't you? A Because I did not want to.

Q Didn't you just throw Joe Cohen's name in there to make good the hanging of the Jews in this case?

THE COURT: Did you mention Joe Cohen's name just now for that purpose.

THE WITNESS: Yes, sir.

THE COURT: He does not understand I think.

Q (Question repeated). A The hanging of the Jews? What is the meaning of that?

THE COURT: Did you say just now that Joe Cohen told you that in order that the Jews in this case might be convicted and the Italians go free?

THE WITNESS: No, sir.

Q Can you explain any better than you have explained why it was necessary for Joe Cohen whose market was down town, and whose home was in Brooklyn, to give you the information that Newmark had no watchman there at night? A I don't know what was his ideas. I don't know what made him give me all them jobs.



Q Well, weren't there watchmen in some of these places along that street? A I don't know. I did not go around to them markets.

Q Don't you know that there were watchmen living or staying at night at the adjoining places there? A No, sir.

Q Were there any houses near it? A I guess so.

Q Buildings near it? A Yes, sir.

Q Places where people lived right near it? A No, sir.

Q Were there any people living there at night near that place? A I do not think so, no, sir.

Q Did you do anything to give an alarm when the fire broke out so that you could be sure nobody would be burned? A There was a policeman right on the corner--

THE COURT: No, did you do anything?

THE WITNESS: No, sir.

Q You did not go there early and watch and as soon as the fire broke out, give an alarm, did you? A No, sir; after a while.

Q But when you got there the thing was all ablaze? A Well, it was gone up in a blaze.

Q Well, I think the next offence that you mentioned, was horse poisoning, and I think you said that Joe Cohen proposed that to you? A Yes, sir.

Q To poison the houses up there in Newmark's place? A In Baff's place.

Q That was after the fire, wasn't it? A Yes, sir.

44-3244

Q After Baff had gotten Newmark's place? A Yes, sir.

Q Well, you did not object of course. You made no objection?

A No, sir, because I did not do it.

Q I know, but you found the fellow to do it, didn't you?

A Yes, sir.

Q And you made sure to get the poison, didn't you? A Yes, sir, made sure to get Ippolito Greco, because Joe Cohen told me.

Q Of course. You had no bad feeling against Baff, did you?

A Some of it.

Q You had no bad feeling against Cohen, did you? A No, sir.

Q You had no bad feeling against Jacobs, had you? A Very little about the business matters.

Q And such feeling as you had about the business, you were perfectly willing to go into this horse poisoning scheme, for him, weren't you? A Not for him, but for Joe Cohen.

Q Well, Joe Cohen was backing you and Jacobs. Now, to make a long story short, you knew perfectly well that the poor horses were going to be poisoned? A Not the horses, the stable was in the back--

Q You knew the horses were going to be poisoned, didn't you?

A Yes, sir.

Q And you made sure to get the poison to poison them? A I did not get it.

Q You made sure to get it? A They gave it to me.

Q I know, but you knew they gave it to you? A Yes, sir.

Q And you were more than 21 years old, weren't you, at that

time? A Yes, sir.

BY THE COURT:

Q You say they gave it to you? A Yes, sir.

Q Who? A Abe Graff gave it to me.

Q Was he alone at the time? A Well, he was working at the stand with Charlie Werner.

Q No. Was any one present when he gave it to you? A I don't know if anybody seen him.

BY MR XXXXX MOSS:

Q And you said he got it out of a closet, didn't you?

A Yes, sir.

Q Already prepared? A In a bottle. He even told me that they had used it already down in the market. I don't know whether they did or not.

Q And you had never poisoned a horse before in your life?

A No.

Q You never had taken part in poisoning a horse before, had you? A No.

Q You never had any knowledge of or participation in any horse poisoning before? A No.

Q And you never said a word of reproof to Graff about these poor ~~poor~~ innocent ~~beasts~~ <sup>beasts</sup>, did you. You did not say to Graff that it was too bad to poison the horses? A No.

Q You did not raise any objection to Graff or anybody else?

A No, sir.

Q But you just went out and put the scheme into operation?

CASE # 3244

A Well, they put it up to me.

Q Of course. They did it through you? A I did it through them.

Q All right, you did it for them? A Yes, sir.

Q And you knew what you were about? A I was foolish then.

Q And you said no word for the horses? A No.

Q And you saw that the money was paid? A Yes, sir.

Q And who did you say actually did the poisoning? A Ippolito Greco.

Q This very same man? A Yes, sir.

Q Well, Ippolito Greco came to his end shortly after that, didn't he? A That is what I heard after.

Q You heard it? A Yes, sir.

Q Right in front of that stable, didn't he? A I don't know. I was on the other side then.

Q Do you know anybody that took part in the killing of Ippolito Greco? A No, sir.

Q Did you talk with any of your associates about the killing of Ippolito Greco? A No, sir.

Q Have you had any information at all as to who took part in killing Ippolito Greco? A No, sir.

Q Do you know how he was killed? A I don't know.

Q You made no inquiry at all as to that? A No.

Q Took no interest in it? A No, sir.

Q Don't care anything about it? A No, sir.

MR. O'MALLEY: May I state when he was killed.

MR. MOSS: Yes, you can state it.

MR. O'MALLEY: I will state on the record that Ippolito Greco was shot and killed in his stable about October 1915.

MR. MOSS: And will you be willing to state further what disposition was made of the case, if any?

MR. O'MALLEY: so far as I know, the authorities have never apprehended the man who killed Greco.

MR. MOSS: Nobody.

MR. O'MALLEY: They are working on the case now.

Q Now, you said at one time in your answers to Mr O'Malley, that these different things that were done were done to frighten Baff, didnt you? A Yes, sir, in the beginning.

Q Yes, all these things I have been examining you about up to this point, were just simply to frighten him, without any intention of killing him then? A Well, there were words passed.

Q Yes, but up to this time there had been no word about killing him? A Remarks that were passed by Joe Cohen.

Q Didn't you testify to Mr O'Malley that it was after these matters that Joe Cohen spoke to you about killing Baff? A Well, he used to pass the remark, "Baff ought to get killed".

Q Well, wasn't it after the fire? A After the fire he got kind of busy on it.

Q Wasn't it after the fire that you say Joseph Cohen spoke to you about Killing Baff? A He passed the remark before the fire I believe too.

Q Well, was it after that fire and after the horse poison-

ASE #3244



ing, that you spoke to Ippolito Greco about killing Baff for \$500.? A Yes, sir.

Q And you say, if I get you right, that the reason you spoke to Ippolito Greco was that Joseph Cohen had spoken to you about killing him. Well, that was right after the poisoning, wasn't it? A Yes, sir, but Joe Cohen had already spoken to him about the money for the fire, in my market.

Q Yes, but didn't you speak to Ippolito Greco as soon as you say Joe Cohen proposed to you the killing of Baff? A No.

Q Didn't you speak to Greco as soon as the sum of \$500 was mentioned? A Yes.

Q Well, that was after the horse poisoning, wasn't it? A I do not recall it. That took place four years ago. I know that them remarks were passed.

Q Well, you did propose to Greco that he should kill Baff or take the job, didn't you? A Yes, sir.

Q And you did that yourself, with your own lips? A Yes.

Q In that saloon--in Greco's saloon? A Yes, sir.

Q Where was Gagliano at that time? A He was not there. I spoke to him all alone.

Q When was it? A I do not recall now.

Q I want to get the date of the mention of that \$500 the first time by you to Ippolito Greco? A I cannot recall the dates.

Q Come to it as nearly as you can? A It was a little after the fire.

Q Was it days or weeks after the fire? A It may be a week or two.

Q Do you think it was a week or two after the fire? A I cannot recall exactly the time.

Q I am not asking you exactly? A It was about a week or two.

Q Now, by that you do not mean three or four weeks, do you?

A No, sir.

Q And I think that you said that Ippolito Greco told you he would take the job himself? A Yes, sir.

Q Then you knew that by the words of your mouth a man had been put on the track of Mr Baff who was willing to kill him, didn't you? A Yes, sir.

Q And you had not then forgotten the loss you suffered in your business, had you? You were thinking about it, weren't you? A Thinking all the time. They used to make me think it.

Q But you were the man that lost the money, weren't you?

A Yes, sir.

Q Yes, and you would have forgotten it if they had not mentioned it, would you? A No, sir.

Q And you knew all about Greco going down there and looking over the ground, didn't you? A Yes, sir.

Q Now, can you give me about the time when more persons than Greco went down there to look over the ground? A May be about six months before Baff was killed.

Q You mean six months after Greco went down first? A No, sir.

before that. I mean that he was down there more than himself-- he had somebody else with him.

Q Well, when was that. I did not get you? A I say about six months before.

Q Six months before the murder? A Yes, sir.

Q Well, how long before the murder was it that he went down alone?

MR. O'MALLEY: The first time?

MR. MOSS: Yes.

Q The first time? A About three or four months or two months.

Q Before the second time? A Before that he went down there alone, that I seen him down there with more fellows.

Q From the time that you first offered \$500 to Mr Greco or spoke about \$500, to the time that Baff was shot, was that as much as nine months? A Around that.

Q Was it more than nine months? A I could not recall it.

Q Were you as much as nine months in accomplishing the death of Baff? A Yes, sir.

Q As much as nine months? A Yes, sir.

Q Were you more than nine months? A May be a little more. I could not recall exactly the time.

Q And it was pistols and rifles and poisoned ice picks. Was there anything else. Now, all these different things, two kinds of rifles -- all these different plans you say were all in operation for at least nine months? A Yes, sir, that

is what they were telling me.

Q Yes, but you went down and looked over the ground yourself? A I knew the ground--

Q Did you finish your answer? A No, sir.

Q Then go on. A I went down there to look the ground over about my business to buy chickens, and bring it over to my business and sell it. I did not look the ground over to know how to kill him. They were the fellows to look over the ground because they had already told me to look over the ground, and give it to him in the market. They had more brains than me and they were older than me.

Q But brains or no brains, you knew where the bad men were?

A Yes, sir.

Q And you knew how to get them? A Yes, sir.

Q And yet you never have been convicted or even indicted of a crime? A No.

Q Never had seen a bomb? A Never did; never did.  
Not only me, but all my people.

Q Did you ever steal a child? A Steal a child? No, sir.  
What is the use of coming out with such stuff as that?

THE COURT: Just answer the question.

BY MR. O'MALLEY:

Q Cardinale, I want to know whether you have ever seen this man before (indicating a man standing at the rail)? A I think that is the fellow that used to take the snuff. I aint

ASE #3244

sure. He was down in the market with Fat and Ippolito Greco, and I don't know if Zaffarano Brothers, if they were there at the same time.

THE COURT: Who is this man? at the rail?

MR. O'MALLEY: This is Carmella Russo, otherwise known as Charkie Ross.

BY THE COURT:

Q You saw this man down in the market? A Yes, sir.

Q With whom? A With a fellow named Fat and Ippolito Greco.

BY MR. MOSS:

Q When was the last time you saw that man down in the market? Referring to Russo. A That was the time that they were supposed to kill him with the ice pick, if I aint mistaken.

Q How long was that before the murder? A Oh, it may be six or seven months before; five months. I could not recall that.

Q Do you mean to say that you did not see this man down at West Washington market after the ice pick incident, which you say was about five or six months before the murder. Is that right? A May be a little longer. Around that time.

Q Well, do you say that you never went down to West Washington market for any purpose other than to buy chickens? A Yes.

Q Well, while you were buying chickens, did you do anything else? A No, sir. The only thing when I used to go down--the time I went down and brought down Ippolito Greco..

Q You brought Ippolito Greco down one time? A Yes, sir.

Q Didn't you take the opportunity while you were down there



to look over the ground and see what was going on? A No, sir.

Q Why didn't you take the opportunity to go and talk to Joe and Jake and Abe? A Sometimes I used to.

Q Most every day, didn't you? A Yes, sir.

Q Most every day you said on your direct examination you were talking with them? A Yes, sir.

Q And you said, if I got you right, that the talk was altogether about this murder business? A Altogether?

Q Yes. A Something about the business too.

Q Something about your chicken business, of course? A Yes.

Q What was going on? A Yes, sir.

Q Before you sold out? A Yes, sir.

Q But wasn't the greater part of your time spent down there on matters referring to the death nor the murdering of Mr Baff?

A No, sir, I could not get chickens when Joe Cohen was not there, and I had to wait for him when he used to come back, because all the chickens, they were given in his name.

Q How soon after you spoke to Greco about the \$500, did you take him down here? A May be four or five or six days after.

Q And you showed Mr Baff to him, didn't you? A Yes, sir.

Q Why did you point out Mr Baff to Greco? A Because--

Q So that he could kill him, wasn't that so? A Yes.

Q And then do you mean to say that after you had pointed out Baff to be killed, you took no further interest in it down in the market? A I used to go down in the market just to

CASE # 3244

put them fellows wise because they had told me that they did not want to be around whenever they come around to do it.

Q Did you ever point out Mr Baff to anybody else? A Yes, sir.

Q Who? A To one of the gun men.

Q Which gunman? A The gunman that killed him.

Q Which gunman was it by name that you pointed out Baff to? A I refuse to answer that question.

Q Oh, you refuse to tell the name of the gunman that you pointed out Mr Baff to. All right. We will come back to that again. Is your refusal to answer the question the same kind of refusal that you made when you turned around to the judge and said it yesterday? A Yes, because--

THE COURT: Because what?

THE WITNESS: Because it may incriminate me.

Q Why, the judge asked you yesterday what reason you had to give, and you did not give that, did you? A I spoke to my counsel about it, because they were--

Q You spoke to your counsel since you were on the stand yesterday? A I spoke to him this morning..

Q This morning? A Yes, sir.

Q Well, do you think that a statement concerning who that gunman was would incriminate you any more than the testimony you have given without objection?

THE COURT: Do you think it would incriminate you more than what you have already said?

THE WITNESS: Yes.

n't you testified here that you took part in this plot? A Yes, sir.

Q And that you pointed out Mr Baff? A Yes, sir.

Q To one of the gunmen that killed him? A Yes, sir.

Q Well, if you have testified that you pointed him out to one of the gunmen that killed him, will you state your reason why the name of that gunman would tend to incriminate you? A If I explain to you the reason, that is the answer.

Q Then are you testifying here in a way to protect yourself?

A No, sir. I am testifying to place the trouble where it belongs. It is enough that I put them fellows in such a trouble.

BY THE COURT:

Q What fellows? A The two gun men.

Q And you want to protect them now? A It aint that I want to protect them, but it is enough I put them in such a trouble.

Now, I want to place the trouble where it belongs.

BY MR. MOSS:

Q Isn't it a fact that you want to save those two gunmen from being tried on your testimony? A I don't get that. I don't understand it.

Q Don't you mean that you want to answer in such a way that the state cannot put you on the stand and prove the name of the gunmen? A I don't understand that either.

Q You don't understand that? A No, sir.

Q Is it yourself you are trying to protect, or is it the gunmen? A It is myself.

ASE #3244

Q Well, you have already admitted that you pointed out Mr Baff to the man that killed him? A Yes, sir.

Q Was Arichiello one of the men that killed Baff? A No.

Q Was it an Italian? A I refuse to answer the question.

Q Was one of them Gaetano Rina? A I refuse to answer any question on that point.

Q Do you know Gaetano Rina? A I don't know.

Q Didn't you ever see him? A I don't know.

Q What is that? A I don't know.

THE COURT: He don't know whether he ever saw him or not.

Q Now, in the statement that was made to you by the policemen or the district attorney or your own counsel which you spoke of, this morning, didn't he tell you that Arichiello and Ferrara had both confessed that Arichiello and Rina went down in the car with you?

MR. O'MALLEY: I object to that.

THE COURT: Objection sustained.

MR. MOSS: Exception.

Q Haven't you in your mind that some one has given information that Arichiello and Rina were in the car with you and confessed to shooting Baff, and aren't you testifying here that you are refusing to testify in order to protect Rina?

A No, sir.

Q Don't you know Rina, and by that I mean a man employed by your uncle Gagliano? A If I aint mistaken, I do.

Q Well, why didn't you say so before. A I told you that this morning, that I knew him.

Q What do you mean by saying, "If I aint mistaken." A That is what I mean, because I aint so sure. May be you might mean somebody else.

Q Well, now, the man that you have in your mind that was employed by your uncle Gagliano, wasn't he one of the men to whom you pointed out Baff? A I refuse to answer the question.

Q Was DiPaolo the man you have identified as Fat-- A I refuse to answer any questions on that.

Q Listen to my question-- one of the men who fired the shot at Baff? A I refuse to answer any question on that.

BY THE COURT:

Q As to what? A On the two gun men.

Q As to who the two gun men were? A Yes, sir.

Q On what ground? A Because it might incriminate me.

BY MR. MOSS:

Q Did you ever tell Mr O'Malley the names of the men or the name of either one of them? A No, sir.

Q Did he ask you? A Yes, sir.

Q Did you refuse to tell him? A Yes, sir.

Q And in his questions he did not ask you their names, did he? A Always asked me.

Q Did he ask you in any one of the questions, about these two men? A Yes, sir.

Q What their names were? A Yes, sir.

CASE # 3244



Q Here in court? A Not here; when I made the statement.

Q You were always asked about two gunmen, weren't you, here in court? A Yes, sir.

Q And have you told Mr O'Malley that you would refuse to give the names of those two men? A Yes, sir.

Q Had he promised not to ask them of you? A No. He never gave me any promise.

Q Didn't you ever tell Mr O'Malley that Carmine Di Paolo shot Baff? A No, sir.

Q Did you ever tell him that Rina shot Baff, or the man that you took for Rina? A No, sir.

Q Will you say now that DiPaolo did not fire the shot at Baff? A I refuse to answer the question.

Q Now I want to ask you -- continuing the narrative, for you ducked me out of my line a little bit there. About these rifles. But before we get to them, did you understand from Greco when he went down there alone that he was going to try to shoot Baff himself? A The first time I understand it.

Q With what? A I did not understand with what.

Q Didn't he tell you he was going to shoot him with a revolver? A No, sir, but that was after.

Q After that first visit when you pointed out Baff to Greco, how long was it before he came down with a couple of men? A May be four or five weeks later. I do not recall exactly the time.

Q All right. Was it the intention then to shoot him with a

revolver? A I guess so.

Q They did, not come down in any car, did they? A No.

Q And you were down in the market there when they came?

A Yes, sir.

Q How did you happen to be there just at that time? A Because they told me that they was coming down.

Q And you stayed there to meet them? A I did not stay there to meet them. I went down to the market to put wise Joe Cohen and Willie Simons and whoever was around.

Q You stayed there until they came? A Yes, sir.

Q And you did not go away until they went? A Sometimes they used to--

Q No. That time? A No, sir.

Q Did you go uptown with them? A No, sir.

Q Now, in these times before the rifle was used, and when these men were down there in the market looking around after Baff, what men did you see connected with Greco? A That is the only fellows I saw connected with--

Q Who? A Russo-- the fellow that was here before.

Q Yes, the man in handcuffs? A Yes, sir. And Fat.

Q That is DiPaolo? A And Za ffarano.

Q The two of them? A The one with the missing finger.

Q That is Joe. Who else? A And Joe Greco and Arichiello.

Q And these men that were down there with Greco, did you understand they were all down there for the purpose of trying to kill Baff? A I understood that but I never knew it from them.

ASE #3244

Q Now we come to the time about the rifle. What was the date when Greco first spoke to you about the rifle?

THE COURT: When did he first speak about a rifle?

A That is when they were trying to kill him in Brooklyn.

Q I want the date when a rifle was first spoken of? A I cannot give you the dates of anything.

Q Please to fix it by some other occurrence. Near to what time was it?

THE COURT: He says near to the time they were trying to kill him in Brooklyn.

Q Can you say how long before the shooting of Baff it was?

A I guess it was a couple of months before, or a month before, the rifle was bought--the small rifle. Because he tried it with his rifle for--

Q That was one month or two before the rifle was bought?

A One or two, yes.

Q Now, that wagon, was that wagon used with the rifle that was bought on the Bowery as you testified--the wagon down in the market? A Yes, sir, that wagon was used with a small rifle.

Q You said that that wagon stood at one of the corners, and the men got out of it-- Arichiello was the driver, Joe Greco was inside of it, and the boys played with the wagon and almost upset it. Where was that rifle when the boys played with it?

A Inside of the wagon. That is what they told me and Abe Graff saw it, but they were not on the wagon then.

Q You saw these men walking on the street, didnt you? A Yes.

Q And neither of these men had the rifle at the time? A They had it in the wagon.

Q They did not have it on their person? A I did not see it in the wagon.

Q When you saw the men in the street they did not have the gun with them, did they? A No, sir.

Q And you believe the gun was in the wagon when the boys were playing with the wagon? A Yes, sir.

Q You believe these men got off the wagon and left that Winchester with the silencer in the wagon? A Yes, sir.

Q And left the kids playing with it and they nearly upset the wagon? A They did not leave it there for the kids to play with it. They never thought that anybody would fool around the wagon. And they had a blanket over the rifle.

THE COURT: A blanket over it.

THE WITNESS: Yes, sir.

Q Now, there was a time I think you told us when Greco gave up the job? A Yes, sir.

Q When was that? A About three months before Baff got killed.

Q And then you took it up, didnt you? A Yes, sir.

Q You took Greco's place, didnt you? A Yes, sir.

Q Greco said that he was afraid of it, didn't he? A He did not say that he was afraid of it.

Q That there was too much publicity? A He said he tried his

CASE # 3244

best and he could not do it, may be he did not have the right fellow.

Q You think he did not have the right fellow? A May be it was for that purpose.

Q Now, Greco whom you had got for Joe Cohen, gives up the job, you think, because he did not have the right fellow? A That is my idea. I did not know if it was for that.

Q And you undertook to get the right fellow? A He told me.

Q Oh, Joe told you? A Not Joe.

Q Greco? A Yes, sir.

Q Greco told you but you told Joe and Jake and Jacobs and Abe? A I told the fellows that Ippolito Greco had the job, so I told them that he did not care to do it no more. That he had sent me over to them-- to these here two fellows.

BY THE COURT:

Q The other two fellows whose names you won't give? A Yes, sir.

Q But did he send you to them? A Yes, sir, he told me to go and speak to those two fellows.

Q He told you to go and speak to them? A Yes, sir.

Q Did you know them before that? A Yes, sir, I know them from some place.

BY MR. MOSE:

Q Wasn't your testimony that Greco was willing that you should go to them? A Yes, sir.

Q You told Greco you would go, didn't you? A Yes, sir.

Q And he gave you his permission to go? A Yes, sir.



Q You did not want to go to these other men until Greco gave it up? A Because I did not know the fellows that were to do that.

Q I knew. You did not want to butt in on Greco's job? A I was butted in already.

Q You did not undertake to get these other two men until Greco gave you his permission, did you, am I right? A Yes, sir.

Q When was it that Greco gave you his permission to go and get some better gunmen? A Not better. He said to go to see to them fellows, because they were in a hurry to see Raff killed. So I see Ippolito Greco and I said, "You are working at it so long, you don't do anything." And he said, "Tony, I tried my best, you better speak to those fellows, I don't care to do it no more."

Q You thought you could get men with more courage than Greco? A Not that I thought. He told me them two fellows.

Q Did he name them to you? A Yes, sir.

Q Did he say why he did not go to them himself? A No.

Q Did you ask him why he did not go himself? A He told me that he was going to speak to them.

Q He told you that he was going to speak to them so that they would know it was all right? A Yes, sir, for may be the fellows would not have confidence in me.

Q And he would speak a good word for you? A Explaining to them the job..

3244  
CASE #

Q Did he say he would speak a good word for you? A Something like it.

Q Will you tell me why you were willing to become a more active agent in this murder of Baff? A Because I used to go down to the market, and they say, "What is the matterbTony". Jacobs wants, he said, "What is the matter, I think you are fooling the whole lot of us." He said, "They are coming down and coming down, and they never do anything." And Joe Cohen the same way-- "What is the matter; when are they coming down" . And Willie Simons and Joe Cohen and every one of them used to say the same thing. And of course I went over and I told that to Ippolito Greco.

Q Well, by that time you say Joe Cohen had already met Greco? A Yes, sir.

Q He could have talked with Greco himself? A He did not want to come up there sooften.

Q But he did talk to Greco himself, didn't he? A Yes, sir.

Q You said so? A Yes, sir.

Q Well, you went and saw these two nameless ones and reported back to Greco, did you? A Yes, sir.

Q And Greco cannot tell what you said to him, can he. He is not alive? A He aint alive now.

Q Well, will you tell us what you said to Greco? A I told him that I had spoken to them and they told me "All right, we want to speak to him because we don't want that nobody should out in on this job, when we do this job, we want to do it our-

selves."

BY THE COURT:

Q They said that to you? A Yes, sir.

Q Did you tell Greco that? A Yes, sir.

BY MR. MOSS:

Q What did you do with these two men? A I took one of them  
him  
down after they agreed to take the job, I took ~~them~~ down  
to show him Baff.

Q Was either of these men an acquaintance of Gagliano, your  
uncle? A I don't know.

Q Did either of these men know Gagliano your uncle? A I  
don't know.

Q Did you ever see either of these men in the presence of  
Gagliano? A I refuse to answer any question on that.

Q Did you speak with Gagliano, your uncle, about these two  
men? A No, sir.

Q Did he speak to you? A No, sir.

Q Did he ever see you with them? A No, sir.

Q Did you point out Baff to that gunman that you took down to  
the market? A Yes, sir.

Q Did you point him out with the intention that he should  
be shot? A Yes, sir.

Q And from the time that you pointed out Baff to this man to  
be shot, how long was it before he was actually shot? A About  
two and a half months before-- three months.

CASE 73244

Q And was it one of these men that you say laid on his stomach up there in the loft over Werner's place? A Yes, sir.

Q What was the name of that man? A I refuse to answer that question.

Q Was Russo one of those two men who shot Baff? A No, sir.

Q Has either of those two men been arrested? A I refuse to answer any questions on the gunmen.

Q I must put each question. Have either of these two men been arrested? A Which gunmen?

Q That killed Baff? A I don't know any of them. I refuse to answer any question on that point.

Q For the same reason you gave the Judge? A Yes, sir.

Q Will you say whether or not either of those two men was Zaffarano? A No, sir.

Q It was not, you say? A No.

Q Do you know that Zaffarano pleaded guilty to manslaughter--

A I don't care what they pleaded.

Q Or to attempted murder in the first degree? A I don't know.

Q For the killing of Baff? A I don't know.

Q Mr. Witness, are you not taking this position that your answer would tend to incriminate you, for the purpose of shielding the persons who actually killed Baff? A I refuse to answer any question on that point.

Q Weren't the persons that killed Baff absolutely under your control and didn't you procure that they kill Baff be-

cause you hated Baff yourself? A No, sir. Maybe I

THE COURT: You have answered "No".

Q Now, you say you have talked with Moe Rosenstein. Have you talked with Moe Rosenstein sufficiently to know whether or not Moe Rosenstein had a hatred for Joe Cohen?

MR. O'MALLEY: Objected to.

THE COURT: Objection overruled.

A I don't know.

BY THE COURT:

Q Have you heard anything that he had a bad feeling towards Joe Cohen? A No, I don't know anything about it.

BY MR. MOSS:

Q Well, it was you that went down in the Bowery and bought that rifle, wasn't it? A Yes, sir.

Q And it was you that advanced the money for it, wasn't it? A Not me. Joe Cohen gave me \$10.

Q How much did you pay down on the rifle? A The whole thing?

Q At first? A I do not recall whether it was \$5. or \$10?

Q How much did you pay down altogether? A \$26.50, if I ain't mistaken.

Q And you yourself handed the cash out? A But Ippolito Greco gave me the difference, because he wanted to have the rifle for himself.

THE COURT: He paid the difference between the \$10. and the \$26.50?

ASE 7-3244



THE WITNESS: Yes, sir.

Q Then the matter of the selection of the rifle and the paying for it was between you and Ippolito Greco?

THE COURT: He said Joe Cohen contributed \$10. for the purchase price.

Q But you did not state that Joe Cohen was in the store when you bought the gun? A No.

Q And you don't say that he paid any money to the proprietor of the store, do you? A No, sir. He gave me the \$10.

Q And when you saw that wagon down to the market with the gun in it and the man laying for Baff, Arichiello was the driver, wasn't he? A I did not see the gun in it, but I was told --

Q You were told by Arichiello that it was in the wagon?  
A Not by Arichiello.

Q By Greco in front of Arichiello? A No, sir.

Q Well, Arichiello was driving the wagon in which Joe Greco told you the gun was? A Not Joe Greco. Ippolito Greco.

Q I thought you said "Joe"? A No, sir.

Q But you did see Arichiello down there a number of times in the gunmen's party, didn't you? A Twice I see him.

Q And you saw him driving the wagon at the time that you say the scheme was to shoot him through a hole in the back of the wagon? A Only once I saw him driving.

Q And that is the man that you say on the stand is not guilty

in any way of the murder of Baff? A Yes, sir. He was guilty to go down there twice --

MR. O'MALLEY: I object. He said he did not fire the shot.

THE WITNESS: No, sir, and that fellow did not know who killed him either.

Q Do you know why he confessed that he did it? A I don't know.

Q Have you ever spoken to him about it? A No.

Q Didn't Mr. O'Malley try him? A I don't know.

MR. O'MALLEY: That is conceded.

MR. MOSS: And is it conceded that Arichiello is in the death house now?

MR. O'MALLEY: Yes -- awaiting a motion for a new trial.

MR. BECKER: Without conceding that it is a material fact in the case, we will concede it for the purposes of the record.

THE COURT: Is there a motion pending for a new trial in his case?

MR. O'MALLEY: Yes, your Honor.

MR. MOSS: Then the motion for a new trial for Arichiello, if I understand the concession is awaiting the disposition of this trial?

MR. BECKER: No, not at all.

MR. MOSS: I understood Mr. O'Malley to say that.

MR. BECKER: The motion has been made but has not been argued before your Honor because we were so busy trying this case and getting ready for it we have not time to handle it. The in-

243  
tention is to bring it up as soon as this trial is completed.  
That is what Mr. D'Malley referred to.

BY MR. MOSS:

Q Don't you know that the motion for the new trial of Arichiello is principally based upon what you say, don't you?

A Yes, sir.

Q And you want to save him, don't you? A I want to save him because he ain't the man.

Q And you won't tell us who was the man? A No, sir.

Q You have testified that you are now actually in confinement. Where are you confined -- where in jail? A Now, I am stopping at 134 West 4th street.

Q You mean the prison up there? A No, sir, in 4th street.

Q Is there a prison there? A No.

Q At <sup>a</sup> ~~the~~ hotel? A It is a boarding house, which the doctor gave the order that I could not stay no more in jail.

Q That is all right. I am not complaining about that.

A You see I went through a big operation.

THE COURT: Lately?

THE WITNESS: Yes, sir, only two and a half months ago.

Q And who have you talked with about this case since your arrival in this country? A Nobody.

Q Oh yes, you have? A Oh, with my counsel and the District Attorney.

Q With anybody else? A Not that I recall it.

Q Now, think carefully. Have you talked with any citizen

about this case since you arrived in this country? A I spoke with the two Italian officers that came with me, about it, but very little.

Q Have you talked with any citizen, I ask you? A Not that I recall.

Q Have you talked with a man named Musica? A Yes, sir.

Q Isn't he a citizen. Why didn't you recall it? A I did not recall it.

Q How many times did you talk with Musica about this case? A About 50 or 60 or 70 times.

Q And you did not recall it? A Because he used to come with my lawyer.

Q He used to come with your lawyer to this boarding house? A Not to the boarding house. Even in prison they used to come together.

Q When did you see him the last time? A The night before yesterday.

Q What is that? A The night before last.

Q Where did you see him? A Where I am stopping, with Mr. Deuel.

Q Mr. Deuel, your counsel? A Yes, sir.

Q How long was he there on that occasion? A Oh, about an hour or an hour and a half.

Q Did you talk over any part of your testimony with Philip Musica on that occasion? A Not that night.

Q What were you talking with him an hour and a half for?

CASE # 3244

A He told me that the case was prepared.

Q Go on? A Mr. Deuel -- when I will be called on the stand to testify.

Q Did it take Mr. Musica an hour and a half to tell you that? A No.

Q Well, he talked about the case, didn't he? A Very little about it.

Q Didn't he talk about the case during those 50 or 60 times? A Yes, sir, sometimes I did not understand the words that Mr. Deuel said, and he acted as interpreter.

Q Do you know who Mr. Philip Musica is? A No, sir.

Q When did you first become acquainted with him? A Through Mr. Deuel.

Q Through Mr. Deuel? When? A That is when I first came here.

Q That is before you made your statement to the District Attorney? A Yes, sir.

Q Did you tell Mr. Musica about Joe and Jake and Abe and the rest of them? A No, sir, I did not mention anything to nobody before I made the statement.

THE COURT: To the District Attorney?

THE WITNESS: Yes, sir.

Q Well, since you made the statement to the District Attorney did you talk it over with Philip Musica? A No, sir. I spoke to him but not before the statement.

THE COURT: The question is after the statement?



Q Did Philip Musica advise you to make the statement?

A Mr. Deuel.

Q Did Mr. Musica? A No, sir.

Q Did he say one word of advice? A No, sir.

Q Do you know who Philip Musica is? A No, sir.

Q Is he not a convict? A No.

Q Didn't he tell you that he had been in the Tombs for 22 months? A No, sir.

Q Unsentenced, on a plea of guilty? A No, sir.

MR. BECKER: I object to this.

THE COURT: He has answered "No".

Q Did Mr. Musica tell you whether or not he had been used before by the District Attorney's office in cases to see parties? A No, sir.

Q Did you know whether or not he was getting concessions upon his sentence in return for services performed for the District Attorney's office? A No, sir, I don't know anything about that.

Q Do you know whether or not Mr. Musica has rendered a bill to the District Attorney for his services in this case? A No.

Q And then of course you don't know how much he had rendered a bill for?

MR. O'MALLEY: Objected to.

Q Now, having tried to refresh your recollection about Mr. Musica, didn't you and Mr. Musica go over this whole statement that you testified to here, step by step, the whole of this? A N o.

CASE # 3244

Q Do you mean to say that you never told Musica what you told us in court? A He heard it when I talked to my counsel

Q And he never said a word, did he? A No, sir.

Q What was he giving his time there for? A I don't know for what. I believe he works with Mr. Deuel, that he is a partner of Mr. Deuel.

Q He is not a lawyer, is he? A I don't know.

Q What made you think he was a partner of Mr. Deuel's?

A Because he is well educated.

Q Yes, a well educated man.

BY THE COURT:

Q Was he always with him when he came to see you? A Not always.

Q Sometimes? A Yes, sir.

BY MR. MOSS:

Q Didn't Philip Musica go over with you this story and refresh your recollection as to many of the points in it? A No, sir; Mr. O'Malley done that -- when I made the statement he said "Take your time and tell me the truth".

BY THE COURT:

Q Who said that? A Mr. O'Malley.

BY MR. MOSS:

Q Well, I will ask you again -- I hope I have refreshed your recollection -- before you made one word of your statement to Mr. O'Malley, didn't you tell the facts to Musica, as you have stated? A Not to Musica; to my lawyer.

Q You told the story to your lawyer? A Not the story;

I told him I did not know anything about it.

Q Well, if you told your lawyer that you did not know anything about it, will you tell me why it was necessary for Musica to go to your house 50 or 60 times? A Because some of the words that Mr. Deuel used I did not understand.

Q How did it take 50 or 60 times for Mr. Deuel or you to become acquainted with the words you did not understand?

A That I don't know.

Q Wasn't it because there was a long statement that had to be gone over? A No, sir.

Q Wasn't it Musica that introduced you to Deuel? A No, sir, my people got Mr. Deuel.

Q Do you know how your people got Mr. Deuel? A No, sir.

Q Do you know whether Mr. Musica didn't name Mr. Deuel before he was suggested in your case? A No, sir. At first Mr. Marshal was my lawyer.

Q In your conversations with Mr. Musica was the name of Gagliano mentioned? A No, the only thing Mr. Deuel told me "Tony, whoever knows anything about it, make a statement". So that is the way I made the statement.

Q Was the name of Mr. Gagliano, your uncle, mentioned in that statement or in the conversation? A Not with Mr. Musica. I did not have much visit with him.

Q Now, Mr. Witness, have you talked with Harry Baff?

A Yes, sir.

Q Where? A Only about two minutes.

CASE #3244

Q Where? A In this building.

Q Only once? A Yes, sir, for about two or three minutes.

Q You met him, you say, ~~many~~ only once. Is that right?

A Yes, sir.

Q Did you ever meet Mrs. Baff? A Never did.

Q Since you were brought over here have you seen Frank Burke -- I mean since you came to America from Italy, have you seen Frank Burke? A No, sir. I seen him yesterday.

Q Where? A Over here.

THE COURT: When he was brought into court?

Q Do you mean when they were brought into court here?

A Yes, sir.

Q Is that the only time? A Yes, sir.

Q Since you came from Italy have you seen Sorro? A Yes, sir.

Q Where? A In Mr. O'Malley's office.

Q In Mr. O'Malley's office? A Yes, sir.

Q What other citizens have you talked with since you came to America besides Mr. Musica and Mr. Deuel?

THE COURT: And Mr. O'Malley I suppose too.

Q And Mr. O'Malley? A Mr. Black, Mr. Marshal, my lawyer. I do not recall anybody else.

Q Have you talked with a newspaper man named Bond? A No, sir.

Q Have you talked with any newspaper man whose name you cannot give us? A No, sir.

Q Has any newspaper man talked with you about the facts in this case? A No, sir.

Q Has any newspaper man talked with you about the facts in the Arichiello case? A No, sir.

Q Have you talked with Mr. Neumark since you came from Italy? A No, sir.

Q Have you talked with Miss Sullivan since you came from Italy? A Yes, sir.

Q Well now, that is one? A I did not recall it.

Q Where did you talk with her? A The first time I spoke to her up here in front of Mr. O'Malley.

Q And where else? A Then she came to the hospital.

Q Has she seen you at the hotel where you are staying -- in the boarding house? A Not in this boarding house.

Q Well, any other boarding house? A No, sir.

Q Has she seen you when you were with Mr. Musica? A If I ain't mistaken, by Mr. O'Malley, that was last week some time when she came up there with a notary.

Q My question was whether you saw her at some time when you were talking with Mr. Musica? A Yes, sir, she was there and Mr. Musica was there and another fellow was there.

Q Who was the other fellow? A The notary, the fellow that took the --

THE COURT: A notary public.

Q Were you then signing an affidavit or the statement for Mr. O'Malley? A No, sir.

Q Was the notary for you? A Yes, sir, about getting the names from the people that they owned the property out in

ASE 77 3244



Brooklyn, the time that I was getting the permit.

Q Regarding the permit out there? A Yes, sir.

Q Did you see Mr. Musica anywhere other than in that boarding house? A Yes, sir.

Q Where? A In the hotel with Mr. Deuel. In the Tombs.

Q That was another Hotel? A The Broadway Central.

Q How long were you at the Broadway Central? A About two months.

Q How many times did Musica come to you at the Broadway Central? A Very few times -- two or three times.

Q And I suppose you had a number of talks with policemen -- detectives? A Yes, sir, a whole lot.

Q Right along? A Yes, sir.

Q The detectives knew what you were going to testify to, I suppose you told them? A Some of them.

Q Before you came here, they knew before you came here what you were going to testify? A No, they did not know the whole thing, only a few words.

Q Do you mean a few words or a good deal of it? A A few words.

Q Well, did you see Mr. Musica in any other place? A In the prison; in the hospital.

Q Didn't you see him in the Warden's office in the Tombs?  
A Yes, sir;

Q In the private office when you were in the Tombs?  
A Yes, sir.

Q Not in the council room, but in the private office --

Warden's private office? Q Yes, sir.

What was for the purpose of making a private statement  
him? A No.

Q Why did you have to see him in the Warden's office and  
not in the council room? A That was because my wife used  
to come there with the babies.

Q Didn't you go over the facts in the case with Mr. Musica  
there in the Warden's private office in the Tombs? A No.

Q How many times did he see you in that private room?  
A Two or three times.

Q Had you see Mr. Harry Baff before you went to Italy?  
A No, sir.

Q Did you receive some money from Harry Baff before you  
went to Italy? A No, sir.

THE COURT: Did you ever receive any money from Harry  
Baff?

THE WITNESS: No, sir.

Q I do not mean necessarily direct from his hands, but I  
mean through somebody from him? A No, sir.

Q Did you have any understanding that your wife would  
receive money through him or from him? A No. The only  
money my wife received --

Q No. You have answered my question. You told us that  
before.

THE COURT: You have answered the question.

Q Well, haven't you had conferences with some persons at

CASE # 3244

Frank's cafe, No. 14 Franklin Street? A I do not recall it.

Q A restaurant down here near this building? A I do not recall that.

Q Do you mean to say you did not? A Maybe I did, but I don't recall it.

Q Do you mean to say that you did not have conferences with persons down here in this restaurant here near this building? A Every time that I was there my lawyer and my wife was there.

Q Well, were you there? A That is the only time I ever spoke in restaurants when my lawyer was there.

Q How many times? A I don't know whether it was once or twice.

Q Q Well, wasn't it more than once or twice? A I don't recall it. That is all I recall.

Q Q Wasn't Musica over there? A You mean in this restaurant here -- they call it Mary's restaurant?

Q Yes, Mary's restaurant? A Yes, sir, I was there.

Q How many times? A Two or three times.

Q Is that all? A Yes, sir, that is all I can recall; and every time that I was there the officers used to be with me. I never was let alone from the officers, not even a minute.

Q I know, but didn't you meet Musica over there? A Yes, sir, with my counsel.

Q Well, pretty near every time your counsel was with you Musica was along? A Not every time.

202

Q Well, pretty near, I say? A Yes, sir.

Q Didn't you see Musica at times when your counsel was not along? A A couple of times when he used to come over and tell me when my wife was coming down.

Q Was a couple of times all the times you saw him away from Deuel? A Well, maybe ten.

Q Maybe ten? A Yes, sir.

Q Maybe it was more? A I could not recall the time.

Q Haven't you had frequent conferences with Mr. Musica alone when you have gone over with him your story? A No, sir.

Q Haven't you had as many as ten of these?

THE COURT: When you have gone over the story with him?

A No, sir.

Q Have you see him as many as ten times when Mr. Deuel has not been with you? A Yes, sir.

Q And what have you talked about on those occasions? A I do not recall.

Q What was there for you to talk about except (this case?

A He used to come down and say "Now, Tony, your wife is coming down tomorrow night". That was all.

Q What was there for you to talk with Musica about except this case? A Nothing else.

Q Will you tell me a single subject that you talked with Musica about besides this case? A No, sir. Maybe --

Q There was not one? A Maybe there was but I do not recall it.

MR. MOSS: That is all.

CASE #3244

BY MR. KOPP:

Q Now, as I understand it, you say that Greco abandoned this job how many months before Baff was killed? A Maybe six or seven or eight months before.

Q And after Greco gave up that job you employed these two gunmen whose names you refuse to give? A Yes, sir.

Q And while those two gunmen were waiting for their chance to kill Baff, nobody else was sent out by Greco to do anything to Baff in the market? A No, sir.

Q So that whatever attempts were made on Baff's life after Greco abandoned the job, was made by the two gunmen whose names you refuse to give? A Yes, sir.

Q You testified that one of the gunmen concealed himself in a garret in Hawk's place? A Yes, sir.

Q That gunman was one of two gunmen who subsequently shot Baff? A One shot Baff.

Q Is that correct? A Yes, sir.

Q You testified that another gunman, one of the two, subsequently concealed himself in Werner's garret and attempted to shoot Baff? A Yes, sir, that was the same fellow.

Q The same fellow? A Yes, sir.

Q What was the other nameless gunman doing while this gunman was concealed in the garret? A I don't know. I guess he was around the market.

Q Where did you get into touch with these two gunmen?  
A I refuse to answer the question.



Q Was one of these two gunmen the same gunman that you met up in the Bronx when the money was paid over? A Yes, sir.

Q And that \$1,000. which you testified which was paid, which Graff brought, was paid over in your presence to that nameless gunman? A Yes.

Q What is that? A I refuse to answer any question on that.

Q Well, you did not refuse to answer Mr. O'Malley yesterday when Mr. O'Malley asked you if you met Graff at a station up town? A Yes, sir.

Q Did you meet them? A Yes, sir.

Q Were there two gunmen there? A One.

Q Which gunman was it? A I refuse to answer the question.

Q And was that the same gunman who was hiding in the garret in Werner's place? A I refuse to answer the question.

Q And was it this gunman who received the \$1,000. from Graff? A I refuse to answer that question.

Q Is this gunman alive? A I don't know.

Q What? A I don't know.

Q Have you ever seen him since you came back from Italy?

A I don't know.

Q Do you mean that you don't want to answer? A Yes, sir.  
How could I see him when I only see my people?

THE COURT: Then you have not seen him?

THE WITNESS: No, sir.

Q What is your object now in testifying against these defendants? A Because the trouble belongs there, and I could

CASE #3244

not carry it in my mind no more and my conscience, and I want to place it where it belongs.

Q If that is your only object, isn't it just as important for you to place the crime where it belongs, to the man who killed Baff? A I said just before --

Q Just answer my question? A I said it before -- that is enough that I give them that trouble, to get them in that trouble; so now I ain't going to mention it. That is all.

Q Aren't you testifying against these defendants because you think you are doing a public service? A No, sir.

Q You are not interested in doing the public any good, are you? A Well, that is if I could do it -- in case I could do it.

Q You are not sorry for what you did, are you? A Yes, sir.

Q You are sorry? A Yes, sir.

Q And that is one of the reasons why you are testifying against these defendants? A It ain't that because --

Q Is it or is it not? A I said I cannot carry it in my conscience no more.

Q You cannot what? A I cannot carry it in my conscience no more.

Q Your conscience is troubled? A Yes, sir.

Q Because you realize you did wrong? A They made me done wrong, and I am in bad myself.

Q But your conscience is troubled because you feel you did not do the right thing? A I started in the wrong thing.

Q And you are sorry because -- A I am sorry that I ever went into the business to -- into the chicken business, I would not have met Jacobs and be in this trouble.

Q If you had not met these boys these things never would happen to you? A Of course not. I had a trade and made big money too.

Q These boys did not bring you into the chicken business?  
A No.

Q You were in the chicken business long before you met Joe Cohen? A Yes, sir.

Q You were in the chicken business long before you met Abe Graff? A Yes, sir.

THE COURT: I think we will have to adjourn now.

(The Court then duly admonished the jury and an adjournment was taken until tomorrow, Friday, June 29, 1917, at 10 A.M.)

CASE # 3244

FRIDAY, JUNE 29, 1917.

The People vs. JOSEPH COHEN and others, resumed.

The Court met pursuant to adjournment.

ANTONIO CARDINALE resumed the stand.

CROSS EXAMINATION CONTINUED BY MR. KOPP:

Q Have you seen anybody since you left the court room yesterday afternoon? A Yes, sir.

Q Who did you speak to? A I spoke to my father-in-law and Mr. Musica.

Q Who is your father-in-law? A Vincenzo Gagliano.

Q Did you talk with Mr. Musica? A Yes, sir.

Q Where? A In the office.

Q Did you talk to Mr. O'Malley? A Yes, sir, right in here.

Q Did you go over with Mr. Musica any of the testimony that you gave here yesterday? A No, sir.

Q Did you talk to him about this case at all? A No, sir.

Q Did you talk to Mr. O'Malley about this case at all?

A No, sir.

Q Did you talk to your father-in-law about this case?

A No, sir.

Q What is your wife's maiden name? A Nancy Cardinale.

Q Gagliano? A Yes, sir.

Q And your father is Vincenzo Gagliano? A Yes, sir.

Q And Vincenzo Gagliano is the brother of Angelo Gagliano who is indicted for murder in this case? A I don't know if

he is indicted for murder, but that is his brother.

Q He is the brother of Angelo Gagliano? A Yes, sir.

Q And Angelo Gagliano, as I understood you to say yesterday, was interested with Ippolito Greco in the saloon?

A I don't know if Ippolito Greco was a partner. I know he used to work there as a bartender.

Q You understood that Angelo Gagliano, who was the owner of a laundry, worked for Ippolito Greco as a bartender? A No, Ippolito Greco worked for him as a bartender.

Q Did you understand then that the owner of that saloon was your uncle and that Ippolito Greco was a bartender to him?

A Yes, sir.

Q How many times from the first of January 1914 until you left for Italy were you at Greco's saloon? A Only once.

Q How many? A Only once.

Q Only once? A Yes, sir.

Q And that was when? A Maybe four or five days after Baff was killed.

Q Do you remember when Baff was killed? A I do not remember.

Q What day do you say you were at Greco's saloon? A I don't say the date. I say five or six days after.

Q Where were you on November 28, 1914, the Saturday following the day that Baff was killed? A If I ain't mistaken, I was in my home.

Q Are you certain? A I don't understand that.

ASE #3244



Q Are you certain?

THE COURT: Are you sure?

THE WITNESS: Yes, sir.

Q What makes you certain that you were at home on that Saturday? A Because I felt sick.

Q And was that the only Saturday that you felt sick on?

A No, I felt sick for about 10 or 15 days -- not laying in bed.

Q You said you were in Greco's saloon four or five days after the murder? A Yes, sir.

Q The murder was committed on a Tuesday? A Yes, sir.

Q Four or five days then would be on a Saturday, would it not? A No, I was not there on Saturday. I am sure of that.

Q Were you there on Sunday? A I don't recall that.

Q Were you there on Friday? A I don't recall that.

Q What did you mean when you said you were there four or five days after? A I meant that I was there four or five days after, but I do not recall when it was; I cannot recall whether it was Friday, Saturday or Sunday.

Q Then you may have been there on Saturday? A If I was, I was there in the day time -- not the night time.

Q Why do you say you were there in the day time. I did not ask you what time you were there? A That is what I say-- if I was there it was in the day time.

Q What made you think that I was going to ask you if you

were there at night? A Well, nothing.

243

Q Were you there at night? A I don't think so.

Q Are you certain? A Yes, sir.

Q Were you at Greco's saloon at any time at night?

MR. O'MALLEY: May we have the time fixed -- before or after the murder?

Q At any time? A Before the murder I was there.

Q You told me before that you were only at Greco's saloon once from January 1, 1914? A Yes, sir -- wait a minute; I did not get that right before; I say that the first time I was by Ippolito Greco's saloon was four or five days after or six days after.

Q And that was the first time in the year 1914 that you were at Greco's saloon? A Yes, sir.

Q At that time was Angelo Gagliano there? A Not that I can recall it.

Q Whom did you meet there on that occasion? A I know that I was sitting there in the back for a while and three or four detectives happened to come in; I did not meet anybody there; I was sitting all by myself.

Q Do you know a man by the name of Loporto? A I heard it now and I guess I know him too; I never had any business with him.

Q Who is Loporto? A A fellow that used to work there.

Q What did he do there? A I don't know. I guess he was a porter.

CASE #3244

Q Did you ever see him tend bar? A Yes, sir. 243

Q Wasn't he the bartender for Greco? A He was a bartender and he used to do cleaning up there -- I used to see him do cleaning up.

Q Was he there that night? A What night? He was never there at night.

Q Was he there at the time that you were there? A I do not recall that.

Q Do you recall anybody that was there? A The only people that I recall that they came in was three or four detectives.

Q Do you recall any Italians who were there? A I recall that Ippolito Greco was there, and some of the detectives that were there were Italians.

Q Who were those detectives who were there? A I do not recall the names but if you bring them in front of me I would know them.

Q Have you seen them since your arrest? A Only once -- one of them.

Q One of them? A Yes, sir.

Q Did you see the Zaffarano brothers there that night?  
A I never was there at night.

Q Did you see the Zaffarano brothers there at the time that you say you were there? A No, sir.

Q Did you see Tony Rina there? A No.

Q Did you see Carmine Di Paolo, the man whom you identified

there? A No, sir.

243

Q Did you see Russo there? A No, sir.

Q Did you see Arichiello there? A No, sir.

Q Did you see anybody paid at that time? A I did not see no money or nobody either.

THE COURT: Did you see any money paid?

THE WITNESS: No.

Q Did you ever see any money paid to anybody in Greco's saloon at any time? A No, sir.

Q Were you known in the Harlem Market as "Tony Gallinari"?  
A No, sir.

Q What does "Gallinari" mean in Italian? A That is the chicken fellow.

Q Were you known as "Tony the chicken man"? A No.

Q Did anybody ever call you "Tony Gallinari"? A No.

Q Did anybody ever call you "Tony the chicken man"? A I do not recall that. Maybe they did in fun.

Q Do you know a man by the name of Patrick Gerofalo?

A No, sir.

Q Do you know where the market auto garage is? A What is that?

Q Do you know where the market guto garage is at 435 East 104th street?

THE COURT: do you know that garage?

THE WITNESS: It is very small; they do repairing there.

Q Do you know that garage? A By passing through there

CASE # 3244

Q Do you know the owner of that garage? A Yes, sir, by seeing him, but I don't know his name.

Q Do you know Frank Ferrara? A Yes, sir.

Q Did you telephone to Ferrara on the day of the murder?  
A Never did.

Q Did you see Frank Ferrara at any time before the murder?  
A Yes, sir, once.

Q How long before the murder? A Oh, about two and a half months or two months before.

Q And you did not see him except that one time? A Yes, sir.

Q And where did you see him then? A Down in Washington Market.

Q Did he have an automobile at that time? A No, sir.

Q Do you know what car Ferrara drove? A No, sir.

Q Did you ever see a Fiat car in that particular garage?  
A I never went to that garage.

Q Did you ever ride in a Fiat car? A I don't know if I did, but --

Q Wait a minute. Did you ever ride in a Fiat touring car --  
A I do not recall.

Q Wait until I finish my question. I will repeat. Did you ever ride in a Fiat touring car with a top, seven passenger car, 35 Horse Power, a brown body, and the license number was 44838? A I do not think I did but I do not recall it anyhow.

Q Well, just see if you cannot recall something about riding in the car? A Can you mention me who was the



chauffeur then. Maybe I recall that way.

Q Can you refresh your recollection on the information which I gave you? A No, sir.

Q Will you say now that you never rode in such a car?

A I do not recall. Maybe I did. But I do not recall.

Q If you rode in such a car when did you ride in it?

MR. O'MALLEY: Objected to.

A I do not recall.

Q Did you ride in such a car at any time before Baff's murder? A I do not recall it.

Q Did you ride in such a car on the day that Baff was murdered? A I do not recall it.

THE COURT: Did you ride in any automobile on the day that Baff was murdered?

THE WITNESS: No, sir.

Q Why did you say you did not <sup>re</sup>call? A Because I am sure that on that day I was not in an automobile. I seen many of them in the street. I did not ride in any automobile that day. I am sure of that.

Q When did you see these two gunmen whose names you refused to give, for the last time before Baff was murdered?

A I seen them about ten minutes before Baff got killed.

Q When did you last talk to them about killing Baff?

A That was on Sunday, if I ain't mistaken.

Q Where did you talk to them? A Abe Graff knows that.

MR. KOPP: I move to strike that out and I ask your

SE 77 3244

Honor to instruct the jury to disregard it.

243

THE COURT: Yes.

Q Where? A In Harlem.

Q Where? A In Harlem.

Q You refuse to tell the place? A Yes, sir.

Q Did you make any arrangements with the gunmen at that time as to how they were to come to the market? A No, sir.

Q Did you talk to them at all about the murder of Baff at that time? A Maybe I did; but I do not recall it -- because somebody else was with me.

Q Do you mean to tell me that the last conversation which you had with these two gunmen in reference to the killing of Baff you do not remember? A That was on Sunday I said.

Q But I did not ask you the day. Do you want the jury to understand that you do not remember the last conversation that you had with the two men who subsequently killed Baff? A That was on Sunday. I spoke to them.

THE COURT: But you don't remember the conversation?

THE WITNESS: No, sir.

Q They did not tell you in that conversation when they were coming down to the market? A Yes, sir, on Tuesday.

Q What? A On Tuesday.

Q Well then you do remember some of the conversation, don't you? A Yes, sir, some of it.

Q Then tell us all of it. What was it that you said to them and they said to you? A I was not the only man talking

to them. I heard them saying "All right, we will be there on Tuesday afternoon".

Q You heard them say that to whom? A Abe Graff.

Q You were there? A Yes, sir.

Q Abe Graff was there? A Yes, sir.

Q The two gunmen were there? A Yes, sir.

Q Was there anybody else there? A Not that I recall it.

Q Well, think? A I did think.

Q Bring your mind back to that Sunday when you say Abe Graff was there and you were there and the two gunmen were there. Was there anybody else there? A I do not recall that.

Q Don't you recall it or don't you want to tell it?

A I do not recall it.

Q You are telling the truth, are you? A Nothing else but the truth.

Q And it is true you do not recall who were there?

A Yes, sir.

THE COURT: He said so twice.

Q And all that you heard of that conversation was that they said they would be down there on Tuesday? A Yes, sir, Tuesday afternoon.

Q Did they say what time they were going to be there?

A I do not recall that, but maybe two or three o'clock, four o'clock -- at least I do not recall it.

Q Did they say how they were coming down there? A Yes,

CASE # 3244

sir, with an automobile.

Q Did they tell you where that automobile was going to be gotten? A No, sir.

Q Have you learned since where they got this automobile?

A No, sir, I did not care to learn.

Q Mr. O'Malley has never discussed that phase of the case with you? A Many times.

Q Has Mr. O'Malley told you the name of the man who drove the car? A He mentioned names, but I don't know if he did drive the car.

Q Did Mr. O'Malley tell you that Frank Ferrara drove the car? Yes or no? A Yes, sir.

Q Did Mr. O'Malley tell you that Frank Ferrara was convicted of murder in the first degree because he drove that car? A Yes, sir, he told me that.

Q Did he tell you that Ferrara in his confession said that you telephoned to him for that car? A We passed many remarks --

Q No. Did Mr. O'Malley tell you that? A Yes, sir.

Q Did Mr. O'Malley tell you that Ferrara in his confession said that you were on the car? A Yes, sir.

Q Did Mr. O'Malley tell you that you met Ferrara --

THE COURT: I think we had all this yesterday. Those are practically the same questions Mr. Moss asked.

MR. MOSS: I did not ask him if he telephoned for the car.

THE COURT: No, but you asked him if Mr. O'Malley told

him about being in the car and riding down in the car.

MR. MOSS: Yes, sir.

MR. KOPP: I do not want to repeat any of Mr. Moss's questions.

THE COURT: I understand that. Proceed.

Q Did Mr. O'Malley tell you that Ferrara said that you met him at 103rd street and Third avenue and went down to the market on the car? A Yes, sir. He told me a lot of things.

Q Did he tell you that thing? A Yes, sir.

Q Did he tell you that in that car at that time were you, the two Zaffaranos, Greco, Arichiello, Tony Rina and Carmine Di Paolo? A I do not recall that.

THE COURT: That was covered yesterday. There is no harm in repeating it, but just to save time do not repeat matters. You may ask this question.

Q Did Mr. O'Malley tell you that? A I think he did but I do not recall.

Q But that is not true.

THE COURT: That you were in the car?

THE WITNESS: It ain't true that I was in the car.

Q And it is not true that the Zaffaranos were in the car?

A I don't know that.

Q And it is not true that Arichiello was in the car? A I don't know that.

Q Did you make an affidavit for a new trial for Arichiello?

A Yes, sir.

ASE 7-3244



Q Did you in that affidavit --

MR. KOPP: Have you the affidavit, Mr. O'Malley?

MR. O'MALLEY: We have not it here now.

MR. KOPP: Then I shall reserve my cross examination as to that until I get the affidavit.

Q Did Mr. O'Malley tell you that on the Saturday after Baff was murdered you, Joe Zaffarano and the other Zaffarano, Joe Greco, Di Paolo, Arichiello, Rina and Russo were in Baedeker's saloon?

MR. O'MALLEY: I object to the form of the question.

THE COURT: Yes. I do not think it makes any difference what Mr. O'Malley told him. Objection sustained.

MR. KOPP: Exception.

Q You testified that Greco abandoned this job how many months before Baff's murder? A Seven or eight months, six months before, nine months -- a long time.

Q You testified that Greco told you that Graff brought \$500. to Greco? A Yes, sir.

Q For this job? A For the killing of Baff.

Q If Greco left this job five, six or seven months before the murder -- A No, sir.

THE COURT: Wait until the question is finished.

Q Did you testify that Greco had nothing to do with this killing of Baff? A He had something to do, but he dropped it after.

Q Did he have anything to do with the killing of Baff

r  
after he dropped it? A Only that he received that money --  
that is all.

Q Why should he have received the money if he dropped it?

A I don't know.

Q Who told Graff to take that money to Greco? A Joe  
Cohen.

Q Were you there when he said it? A Joe Cohen told me.

Q When did Joe Cohen tell you that? A In his own home.

Q How many days after the murder? A The next night.

Q How did Joe Cohen know that this money was to go to  
Greco? A Because he was there before himself.

Q Didn't you tell Joe Cohen that Greco could not get the  
right man, that you were going to get the right man? A No, sir.

Q Didn't you tell that to Joe Cohen? A No.

Q Didn't you testify that you did? A I do not recall it.

Q Didn't you testify in your direct examination that Joe  
Cohen found fault with you for not having this job done?

A Yes, sir.

Q And didn't you then tell him that Greco said he don't want  
the job? A That he did not care to do it.

Q You told that to Cohen? A Yes, sir.

Q And in that same conversation didn't you testify that  
you had told Cohen that you were going to take his job up  
yourself? A Not myself.

Q Didn't you testify that you were going to get the man  
to do it? A Yes, sir, through Ippolito Greco.

SE #3244

Q You told Cohen that? A Yes, sir.

Q Then now you say that after you told Cohen that, Cohen told Graff to take \$500. up to Greco? A That was after the killing, yes, sir.

Q And Cohen told you that? A Yes, sir.

Q And that was one night after the murder? A Yes, sir.

Q When did you first become acquainted with Graff?

A With Graff? That was the time that they had the strike down the market, the same time when I got acquainted with Joe Cohen.

Q Graff was the man who gave you these chickens which you could not get anywhere else, wasn't he? A Joe Cohen told him to give them. I paid him at that time.

Q Joe Cohen brought you over to him and asked him to help you out with some chickens? A I don't know what he said to him. I know that he was the man, that he weighed them, and I got them off him.

Q You testified on the direct examination that you met Joe Cohen during the so-called strike? A Yes, sir.

Q And that Joe Cohen volunteered to help you out to get some stuff. Is that right? A Yes, sir.

Q Was it at that time that he took you over to Abe Graff? A Yes, sir.

Q And wasn't that the first time that you met Abe Graff? A Yes, sir.

Q And you met him at Charlie Werner's stand? A Yes, sir.

Q Do you know what connection Graff had with Werner?

A No, sir, I know that he worked there.

Q What was his work? A Salesman.

Q You heard then Joe Cohen say that Abe should help you out with some chickens? A I don't know anything about that. Joe Cohen took me there and I got the chickens -- that is all.

Q You were there when he took you there? A Yes, sir.

Q Didn't you hear what was said? A No, sir. I was not so foolish to but in on their conversation. That ain't right.

Q Why -- was it private? A Joe Cohen said to me "Come here, Honey, I will try and get a couple of coops for you".

I did not go right in front of them.

Q You did not hear what was said? A No.

Q You kept on trading with Graff? A No, with Joe Cohen.

Q But you kept on purchasing chickens from Werner? A Maybe a few times I did.

Q After you went into partnership with Jacobs did you stop doing business with Werner? A Joe Cohen was doing all the buying then.

Q Didn't you testify on direct examination that you used to come to the market to buy chickens almost every day?

A Yes, sir.

Q Well, in making those purchases, didn't you buy them from Werner the same as other merchants? A Joe Cohen spoke to them and that is how I used to get them. They did not know me down in the market.

SE 73244

Q I don't care anything about that. Did you buy chickens regularly from Werner? A Once in a while.

Q Once a week? A No, no.

Q Once every two weeks? A Maybe once every two weeks; maybe once every two months.

Q You testified that you had at least 30 talks with Abe Graff? A Maybe more.

Q Maybe more? A Yes, sir.

Q Maybe 50? A Yes, sir.

Q Was there anybody present at any time that you talked to Abe Graff? A Everybody used to see me talk to him.

Q Mention the name of one man that was there at any time that you talked to Abe Graff? A The four workmen that lifted up the coops, and Werner himself, the son-in-law too.

THE COURT: Werner the son-in-law and the four workmen?

THE WITNESS: Yes, sir.

Q And when you talked to Graff about the killing of Baff they were there, were they? A They were not there. Maybe they were there but they did not hear anything.

Q All of these talks that you had with Graff about the killing of Baff were had at Charlie Werner's stand? A No, sir.

Q Where? A In Louis Feinstein's telephone booth, in the street --

Q With Graff? A No, with Joe Cohen.

THE COURT: Where did you have your talk with Graff, was the question.



Q All the talks that you testified you had with Graff, they were at Charlie werner's stand? A Yes, sir.

Q With Abe Graff personally? A Yes, sir.

Q Who is Pelegrino? A He is a man that has got a macaroni factory in 192 Elizabeth street.

Q How long did you know Pelegrino? A We were born in the same town.

Q Are you related to him? A Very far away.

Q What is the relationship? A I guess if I ain't mistaken it comes through the mother's side.

Q Are you a Sicilian? A Yes.

Q By the way, do you know a man called "Pete the Sicilian"?

A No, sir.

Q And Pelegrino is a Sicilian? A He comes from the same town.

Q What is Pelegrino's first name? A Andrew.

Q Does he know Pete the Sicilian? A I don't know.

Q Do you know him -- do you know Pete the Sicilian? A No, sir.

Q How many times did Graff call at Pelegrino's place after the murder of Baff? A About four or five times; six times.

Q Didn't you testify yesterday that he called 20 or 25 times? A Where -- in Pelegrino's place?

Q Yes? A I do not recall that.

Q You do not recall testifying to that? A No, sir.

Mr. BECKER: Now, we have produced at the request of Mr. Kopp, an affidavit bearing the signature of the witness

ASE #3244

and dated April 1917.

243

THE COURT: That is on the motion for the new trial --

MR. BECKER: Yes, sir.

THE COURT: On the motion for a new trial made by Arich-  
iello?

MR. BECKER: Yes, sir.

Q Now, when he called at Pelegrine's place, where did you  
talk to him? A Upstairs.

Q What kind of a place is this? A It is a macaroni factory  
and a grocery.

Q How many floors there? A The basement, the front floor  
and the next floor.

Q Where was pelegri~~n~~e when you talked to him? A In the  
store.

Q And your testimony is now that to the best of your recol-  
lection he called at Pelegrine's five or six times? A Yes, sir.

Q When was it that he showed you the picture of Moe Rosen-  
stein? A About six months after Baff was killed -- six or  
seven or five months. I do not recall that.

Q When did you go to work for Pelegrine? A In January some  
time.

Q Was it six months after you were working there? A No,  
about a month before.

Q What? A A month before -- about a month later that  
Baff got killed.

Q No. You say you went to work there in January 1915?

Q And you say that Graff called at some time and showed you a picture of Rosenstein? A Yes, sir.

Q How many months was that after you went to work for Pelegriño? A About five months after.

Q Are you acquainted with the calendar months in English?

THE COURT: January, February, March and so forth?

THE WITNESS: Yes, sir.

Q That would bring that particular talk into about May 1915? A It may be. I do not say exactly.

Q Well, can you approximate it at all? A No, sir.

Q Would you say it was in May, June, July, April or March? A I do not say anything. I said it before -- five or six months later.

Q Well, five or six months would make it May or June?

A Well, let it go that way.

Q You are satisfied then to let it go that way -- that that talk was had in May or June 1915? A Yes, sir.

Q He had a talk with you before that, at which time he said he would bring you Moe Rosenstein's picture?

A Yes, sir.

Q I understood you to say that you did not want to kill Moe Rosenstein because you were tired of this whole thing? A Yes, sir, they put me in enough trouble.

Q Now, Tony, being in enough trouble and if you were tired of this trouble and you did not want to do it, what did he say? A He said he is going to put a whole lot of

ASE #3244

Q But you knew it was going to be taken out of your place?

A Of course, it had to be brought over.

Q Did you take the risk that Sorro would get two strangers to help him take that bomb out of your place and plant it, and so connect you? A No, sir.

Q Didn't you think it was risky to allow Sorro to get strangers to do that? A It was risky for him.

Q And risky for you if you were connected with it? A For him.

Q Didn't you think you had any risk at all if anybody told on you? A Yes, Joe Sorro even had to risk it, and Joe Cohen, I couldn't tell, you got to take risks in this world.

Q Yes, you bring Joe in every time you get a chance --

THE COURT: Don't argue with him.

MR. MOSS: I move to strike it out as not responsive to my question.

THE COURT: Strike it out.  
even

Q Well, you/~~with~~ gave Joe Sorro a key to your place, didn't you? A Yes, sir.

Q So he could get to your place himself and take that bomb out? A Yes, sir.

Q Are you under indictment in that bomb case? A I guess so.

Q Don't you know? A Yes, sir.

BY THE COURT:

Q Do you know whether you are indicted for the bomb business? A Yes, sir.

us in trouble "You better speak to the boys".

Q And what did you say? A "Gee, I am in enough trouble already."

Q Then what did he say? A The same thing that I said before.

Q And then the very next talk you had with him he brought you a picture? A Yes, he said "You give it to the fellows and tell them there is \$500. in it for them".

Q What kind of a picture was that? A It was made in a piece of tin, two and a half by three, or two by three - - one of the two.

Q Did you look at it? A Yes, sir.

Q Did you notice the name of the photographer who made it? A No, sir.

Q Was there a name of the photographer? A No, sir, I do not recall it.

Q What did you do with that picture? A I cut off his half because he told me to cut it off.

Q And you cut it off upstairs in Pelegrino's? A Yes, sir.

Q And Graff was there when you did it? A Yes, sir.

Q And you did it with a scissors? A Yes, sir.

Q Didn't you testify on the direct examination that Graff cut the picture? A No, sir. Maybe you wrote it down that way, but I did not say that.

Q You did not say on direct examination that Graff took the picture and cut the picture? A Do you mean what I said



Q Did Mr. O'Malley ask you to look for that picture?

A Yes, sir.

Q Did you look for it? A No, sir, because I had forgot where I put it. And then my father-in-law moved out of there.

Q But even if your father-in-law lived there you do not remember where you put it? A No.

Q And I suppose you forgot where you put it right after you put it there, didn't you? A No, that is because it is a very long time.

MR. O'MALLEY: Here is the part of the testimony in regard to the scissors (indicating).

MR. KOPP: Yes, I see that he testified that he cut it out.

THE COURT: That was my recollection.

THE WITNESS: I ain't saying nothing else but the truth in this trial.

THE COURT: He said Graff (was present when he saw him do it.

Q Where did Graff tell you he got that picture from? A Down in the market.

Q When? A That is a little before he brought it over to me.

Q Did he tell you when? A No.

Q Did he mention any date? A Maybe he did, but I do not recall it.

Q Did he tell you the name of the man who took it? A No, sir -- I do not recall it.

he tell you what part of the market the picture was on in? A Down the market, he told me; I don't know where.

Q Now, you testified that some gunman went up to Charlie Werner's place in the garret? A Yes, sir.

Q And you testified that that was the same gunman who subsequently shot Raff? A Yes, sir.

Q And you fixed the time when he was up in the garret as when? A I do not recall that.

Q Can you fix the time by considering that the murder was committed in the month of November 1914?

THE COURT: You mean how long before the murder. Is that what you mean?

MR. KOPP: Yes.

THE COURT: How long before the shooting was he up in the garret?

THE WITNESS: About a month.

THE COURT: Is that the time when he made the hole through?

THE WITNESS: Yes, sir.

Q Was that before or after you had met Ferrara in the market with the automobile? A No.

Q I don't remember this -- did you ever see Carmine di Paolo in the market? A Yes, sir.

Q Was it at the same time when you saw Ferrara there?  
A No, sir.

Q Did you see this man in Werner's garret after you saw Di Paolo in the market or before? A After.

CASE # 3244

Q Did you go up there? A Yes, sir.

Q Yourself? A Yes, sir.

Q Did Jones go up? A I seen him up there.

Q Did you see him going up? A No, sir, maybe I did, but I do not recall.

Q Did you see Graff go up? A Maybe I did but I do not recall it. I seen them up there.

Q Who went up first -- Graff or the gunman? A I don't know. I find the three of them up there.

Q So that when you went up to the garret you found Jones, Graff and the gunman up there? A Yes, sir.

Q You do not recall when they went up there? A No.

Q You don't know who went up first? A Yes, sir.

Q Do you know? A Yes, sir. The first time, Abe Graff.

Q Now, you say that you do know that the first time Abe Graff went up? A I just recall it.

Q Why did you testify a minute ago that you did not remember?  
A I did not recall it.

Q But you do recall it now? A Yes, sir.

Q Graff went up, and who followed? A The gunman.

Q And who followed the gunman? A I don't know; I guess the nigger.

Q Were you there? A No.

Q If you were not there how can you tell who went up there?

A Do you want me to explain that?

Q No?

THE COURT: Yes, the question asks for an explanation.

How do you know?

THE WITNESS: The understanding was that the gunman was supposed to follow him to make no mistake where to go.

MR. O'MALLEY: Have you finished your answer?

THE WITNESS: Yes.

THE COURT: Who said that?

THE WITNESS: Abe Graff.

Q Your testimony now is that you know that Graff went up first and the gunman followed because Graff told you? A Yes, sir.

Q You were not there? A No.

Q You did not see it? A I did not see them go up. I seen that no more than the gunman went in the stand that he went after Graff and they walked down the block like.

Q When was it you went up in the garret? A About 10 minutes later, or 15 -- I do not recall.

Q Were there any chicken coops there? A A whole lot.

205  
CASE #3244

Q Did you also go to that same garret with Mr O'Malley and the detectives at the time these photographs were taken (indicating)? A No, sir.

Q You did see a lot of chicken coops there? A Yes, sir.

Q Where was the gunman and Abe Graff when you went up there?

A Upstairs.

Q What part of the garret? A In the back.

Q What were they doing? A They were looking around. They were supposed to drill a hole there.

Q What were they doing? A Abe Graff had the rifle in --

Q What? A I see Abe Graff that he had the rifle in his hand.

Q You saw Abe Graff with the revolver in his hand? A No, a rifle.

Q What was the gunman doing? A They were looking around to see where they would drill the hole.

Q Did you see them drill the hole? A Yes, sir.

Q Who was doing the drilling? A The three of them up there.

Q Who had the drill in his hand? A Some times Abe Graff, sometimes the colored fellow and the gunman.

Q How long did you watch them? A May be five minutes.

Q And in that five minutes you saw Abe Graff have the drill in his hand, sometimes the gunman and sometimes Jones? A Yes, sir.

Q What kind of a drill was it? A It was no drill--it was a gas pipe. I do not recollect. It is a bad place to drill that hole, you know, it comes down this way (indicating); so they



had to be on their stomach to drill that hole. 243

Q And during the five ~~minutes~~ minutes you were there, you saw the three of them lying on their stomachs? A May be-- I did not see the three of them, but may be the three of them was.

Q May be they were all lying there and may be nobody was?

A Somebody was laying there.

Q Somebody? A Yes, sir.

Q How many? A I know they were trying their best to drill that hole. I cannot recall everything.

They were trying their best--

THE COURT: Do not repeat the answers.

Q They were trying to drill a hole with a gas pipe? A I don't know if it was a gas pipe, or what it was.

Q What was it? A It was some pipe. I don't know if it was an iron bar or a stick.

Q Did you see at any time the gun sticking out of the hole?

A Yes, sir.

Q Who had the gun at that time? A The gunman.

Q And it was pointing right outside, out of the hole? A Not out of the hole; from the inside; may be it was sticking out an inch or two inches, or did stick out.

Q You saw the rifle? A Yes, sir.

Q This was on the end of it, wasn't it (showing witness the silencer)? A Yes, sir.

THE COURT: That is the silencer?

MR. KOPP: Yes, your Honor. It is marked Exhibit 20 for Id.

CASE # 3244

Q (Handing) Now I show you Exhibit 20 for Id.? A That is something like it.

THE COURT: Wait until he finishes the question.

Q You saw something like that at the end of the rifle, and you saw that stuck through the hole by the gunman. Is that right? A Yes, sir--it was not through and through though. May be an inch or two inches was sticking out.

Q And when that was stuck through the hole, where was the gunman looking? A I guess outside on the sidewalk.

Q Well, was the hole big enough to permit this Exhibit 20 for Id., to stick through and at the same time look through? A Yes.

Q (Handing) I want you to look at this piece of stick?

A (Witness looks at stick.)

THE COURT: Now, what is the question.

MR. KOPP: I just want him to look at it.

THE COURT: He has looked at it.

Q Would you say that the hole was as wide as this stick?

A Wider, a little wider.

Q And how high was it? A This I could not recall.

Q You testified in the direct examination that two shots were fired across the street? A Yes, sir, on the iron post.

Q While you were there in the garret? A No, sir.

Q I am talking now about the time that you were up in Charlie Werner's garret? A Yes, sir.

Q Did you see the gunman fire any shots across the street?

A No, sir.

Q Did you testify that you did? A No, sir--no more than I went up there I was told that he fired two shots there.

Q You did not see it? A No, sir.

Q Who told you that? A The gunman.

Q When? A At the time that I went up there.

Q You testified that you were there while they were drilling the hole? A Yes, sir--not all of the time, some of the time.

Q This conversation that you had with the gunman was it had at that time when you saw them drilling the hole? A After.

Q Did you have any other conversation with him? A Every time I used to go up there we used to have a few words.

Q It was, then, on another occasion that he told you he fired shots across the street? A The same day.

Q But not at the time that they were drilling the hole?

A It could not be then.

Q It could not be then? A Sure not.

Q Is that why you testified that you did not hear it at that time? A Because the hole was not made yet.

Q When was the first time that you ever met Moe Rosenstein?

A About two months after I was in partnership with Jacobs.

Q When was the first time that you ever talked to Moe Rosenstein about the Baff murder? A Down in the market about three and a half or four months before; I do not recall that.

Q What was the first thing that you ever said to Moe Rosenstein about the murder? A The first thing was that Abe Graff spoke to him and I was there present, and he told me "What is the matter,

ASE #3244

Tony, don't you know me." Well, I kept cool about it, because I did not want to speak to him--I did not know him.

Q Have you talked to Moe Rosenstein since his arrest? A No.

Q Were you with Moe Rosenstein in the House of Detention in 57th street? A Not that I know of. I heard that he was up there.

Q Were you there? A Yes, sir.

Q Were you there at any time when Moe Rosenstein was there?

A That was no House of Detention. That was a prison.

MR. O'MALLEY: Are you speaking about 57th street?

MR. KOPP: Yes.

THE COURT: He said he was there, but he did not see him.

Q Whatever the place was, were you there at any time while Moe Rosenstein was there? A I don't know it.

Q You don't know? A No. You know a prisoner cannot go around--

Q You never saw Moe Rosenstein while you were in the 57th street prison? A No.

Q Did you ever see Jones while you were in the 57th street prison? A No.

Q Do you know a negro named Jones? A Yes, sir, that is the one that worked for Werner.

Q Did you ever see him in the prison? A No, sir.

Q Never talked to him?

THE COURT: In prison?

Q Yes. A No, sir, never saw him.

Q Do you know whether he was in the 57th street prison at the same time you were there? A No, sir.

Q You don't know that? A No.

Q Nobody has ever told you that? A No, sir.

Q How soon after Baff was shot, did you leave West Washington Market? A About five minutes after.

Q What is that? A About five minutes after.

Q Do you know the place where Baff was shot? A No, sir.

Q Has it been told to you since? A I heard it from Chicken Moe and from the gunmen, that he was shot on his own corner almost, from Abe Graff, not Chicken Moe.

THE COURT: Abe Graff and the gunmen?

THE WITNESS: Yes, sir.

Q Do you know now that he was shot on thirteenth avenue?  
A Around his place. I don't know if he was shot on Tenth avenue.

Q Don't you know what Abe Graff told you? A That is what he told me--that he was shot around the corner.

Q When did he tell you that? A That was when he brought the \$50 to my house.

Q You left the market at seven o'clock? A No, sir.

Q What time? A Before that.

Q Was it after Baff was shot? A Yes, sir.

Q And you did not know until the next night where Baff was shot? A I was told by Chicken Moe.

Q When? A Right after they came back from there.

2061

CASE # 3244



Q Didn't you testify that the first man who told you where Baff was shot was Abe Graff? A Chicken Moe.

Q You say now it was Chicken Moe? A May be he did too. I know that Chicken Moe said "They shot him in the shoulder--shit, he won't die."

Q Where were you when he told you? A Right with Abe Graff.

Q Where? A Right in front of Charlie Werner's stand.

Q And Abe Graff was there? A Yes, sir.

Q And Abe Graff told you the same thing the following night?

A Not the following night.

THE COURT: Not the same thing.

THE WITNESS: He told me where the shooting occurred.

Q Abe Graff told you the following night that Baff was shot on 13th avenue? A Not the following night. I did not meet him then. The only thing they told me that they shot him around the corner, around his own place.

Q You testified before that Abe Graff told you that Baff was shot on 13th avenue, when he brought you the \$50.? A I said I did not know if it was 13th avenue or 10th avenue.

Q You testified that Abe Graff told you the spot where Baff was shot, when he brought you the \$50.?

THE COURT: No, he did not testify to that. He said that when he brought him the \$50 he told him the shooting occurred near or around his corner; and then he was asked if he said 13th avenue, and he said No, he did not say 13th or 10th avenue.

Q When was the first time that you learned the exact spot where Baff was shot? A I don't know it yet.

Q Did you hear the shot? A No, sir.

Q Did you see the crowd run? A No, sir. The only crowd I saw was--

Q You have answered the question. Did you see any excitement at all? A No, sir.

Q You left the market at what time? A About five minutes after Baff was killed.

Q How did you leave? A I left no more than I came back to Charlie Werner's stand, and they gave me the turkey.

Q How did you go home? A Right home.

Q How? A I went to 14th street and took the car, got off at Third avenue, and I took the express and got off at 106th street.

Q What street did you walk through, do you remember? A Yes, sir where that corner goes that way (indicating).

Q Did you pass Gansevoort street at any time that day? A I do not recall it.

Q Do you know where Gansevoort street is? A I do not recall it.

THE COURT: Do you know where it is?

THE WITNESS: May be I know it, but I aint sure.

Q Did you know where Gansevoort street was at any time?

A May be I did, but I do not recall it.

Q You cannot testify now as to whether you know, where Ganse-

ASE #3244

voort street is? A No, but if they take me there and I see the name on the lamppost, then I can tell, and I will testify to it.

Q Did you know that there was such a street as Gansevoort street? A Yes, sir, I heard that name.

Q But you don't know where it is? A No, sir-- around there some place.

Q Do you know where Hewitt street is? A No..

Q Were you at any time on Hewitt avenue on that day? A I don't know.

Q You say you don't know? A That I don't know.

Q Did you see anybody run, after the murder? A No, sir.

Q Did you see any automobile after the murder? A No, sir.

Q So that when you left the market five minutes after Baff's shooting, you went uptown? A May be five, six or seven minutes-- no longer.

Q Well, whatever time it was, when you left the market you went home? A Yes, sir.

Q And you stayed home? A No, sir, I did not stay home.

Q How long did you stay home? A May be five minutes.

MR. KOPP: That is all.

THE COURT: Senator Gilchrist, have you any cross-examination?

MR. GILCHRIST: I have, your Honor.

CROSS EXAMINATION BY MR. GILCHRIST:

Q When were you brought back from Italy. When did you arrive

here? A The 7th of November, 1916.

Q And where were you then taken for the purpose of keeping you. Where did you stop? A The Broadway Central.

Q Immediately you were taken to the Broadway Central Hotel in this city? A Yes, sir.

Q And lived there continuously how long? A About two months.

Q During which time you were fed by the usual hotel fare?

A Yes, sir, because I was sick.

MR. GILCHRIST: I move to strike that out.

THE COURT: Yes, strike out all after the words "Yes, sir."

Q You had the usual hotel fare? A Yes, sir.

Q You had the privilege of ordering just what you wanted yourself? A Yes, sir, because I was sick.

MR. GILCHRIST: I move to strike that last part out.

THE COURT: Motion granted.

Q And after the two months at the Broadway Central Hotel, where were you then taken? A I don't know if it was a little more than two months, but I was taken in 53rd Street jail.

THE COURT: 53rd street jail.

THE WITNESS: Yes, sir.

Q During the time that you were in the Broadway Central Hotel, how frequently did you leave the hotel? A I don't get that.

Q During the time that you were in the Broadway Central Hotel, how frequently did you leave the hotel? A Every time that Mr O'Malley wanted to see me.

Q Who had charge of you? A Mr Victor Fontana.

THE COURT: Who was he?

THE WITNESS: An officer.

BY THE COURT:

Q And who else? A A detective by the name of Bonano.

Q Is he an officer? A Yes, sir. And a fellow named Casa.

BY MR. GILCHRIST:

Q Did you go out walking with them? A Sometimes.

Q How often? A Oh, may be once a week or twice a week--  
to go to Mr O'Malley.

Q Outside of twice a week during your stopping at the Broadway Central Hotel, do you wish us to understand that you did not leave the hotel at all?

THE COURT: Did you go out at other times besides when you went to see Mr O'Malley?

THE WITNESS: Oh, yes, sometimes--in a restaurant to eat.

Q You went out to eat elsewhere too? A Yes, sir.

Q What place? A Mary's place. The officer knows it better than me.

Q Mary's place? A Yes, sir.

Q Where else. A I don't know. The officers know it better than me.

Q That was during the evening? A Yes, sir.

Q How often did you go out during the evening? A Every evening I had to go out and get something to eat.

Q Every night? A Yes, sir.



Q There was a restaurant in the hotel? A Yes, sir, and sometimes we had it there too.

Q Pretty near every night you went out for supper? A Yes.

Q You did not always go to Mary's? ~~xxxx~~ Is that right?

A Yes, sir.

Q Sometimes you went up Broadway? A Yes, sir--to Child's for breakfast.

Q And where did you take your walks--through the park? A Yes, sir, and sometimes I went down to the South Ferry and the Battery to get fresh air.

Q And the officers with you? A Yes, sir, all the while.

Q Take a ride once in a while? A Most of the while I did walking, because the doctor told me to walk.

MR. GILCHRIST: I move to strike that out.

THE COURT: Motion granted.

Q How often were you in an automobile? A Never did.  
in

Q Never was an automobile at any time? A You mean after I came back?

Q Yes. A No more than I got off the ship they put me in an automobile, because I was chained up.

Q But aside from that when you were chained, when you used to go out to the Broadway Central Hotel, where did you go riding then? A No place.

Q Never went out in an automobile from the Broadway Central Hotel? A Not that I recall.

Q Now, recollect? A No, sir, I swear to it.

ASE #3244

Q And you never went up through the park in an automobile with the officers? A What park?

Q The Central park, with the officers?

THE COURT: Did you ever go automobile riding with the officers in Central Park?

THE WITNESS: No, sir.

Q And then you went to the 57th street prison? A Yes, sir.

Q During those trips that you made out you never were handcuffed, were you? A No, sir.

Q When you came here from Italy, you came direct to the district attorney's office-- brought first to the district attorney's office? A No, to the Italian consul.

Q And then to the district attorney's office? A Yes, sir.

Q And the first talk that you had with Mr O'Malley outside of his meeting you -- the first long talk about the case was the district attorney's office after you came from the consul's? A Yes, sir.

Q Now prior to that time had you been in communication with anybody, by letter or otherwise, from Europe? A No, sir.

Q Had not written anybody about the case before you got here? A Yes, sir, while I was in jail I wrote to my people and I wrote to Miss Sullivan.

Q How frequently did you write to your people concerning this case? A I could not write every week. They only allowed me one letter a week, and I had to write to my father and uncle--

THE COURT: About this case.

Q Didn't you say you wrote to them about this case? A Yes. This was after I was arrested.

THE COURT: That was after you were arrested over there.

THE WITNESS: Yes, sir.

Q What do you understand the word "cousin"? A Well, something that is a relation.

Q A cousin is the child of an uncle or an aunt of yours, isn't it. That is how you understand it, isn't it? A Yes, sir.

Q And by an uncle or an aunt, you mean your father's or mother's brother or sister? A Not sister. They could be far away than that.

Q But by uncle or aunt, you mean your father's or mother's brother or sister? A They could be farther away too-- far away relations.

Q Far away uncles? A Yes, sir.

THE COURT: That may be true innitally.

THE WITNESS: Well, that is the way I believe it.

THE COURT: Instead of having second cousins or third cousins, they may have second uncles or third uncles.

MR. GILCHRIST: Well, I can see a reason for a second cousin, but not for a second uncle.

Q I understand you to say that you did not go to Arverne in connection with the bomb party. Is that right? A No, sir, I didn't go.

Arverne

Q Never went to ~~Arverne~~ at all in connection with the bomb matter? A No, sir.

ASE #3244

Q In connection with setting the bomb? A No, sir.

Q Have you seen the two gunmen since the murder? A I made that statement yesterday. No.

Q You have not seen them? A No.

Q Nor communicated with them? A No, sir.

Q Directly or indirectly? A No, sir.

Q Has anybody talked to you. Did you send anybody to them or did they send any one to you? A I refuse to answer any question on that about the gunmen.

Q I ask you if you had any communication with them. That is all I want. Had you? A No, sir.

Q You spoke of an interview between Joe Cohen and Greco. Did Joe Cohen talk to Greco quietly, alone, so that everybody did not hear what he had to say? A No, sir.

Q Did he talk to him aside? A No, sir.

Q Speak to him quietly? A No, sir.

Q Did not take him aside and talk secretly to him? A No.

Q Whatever he said, he said in the open? A Yes, sir.

Q And Greco answered him in the open? A Yes, sir. That was in my market.

Q Now just tell us something that you heard Cohen say to Greco and Greco say to Cohen. Tell us the conversation as you recollect it?

MR. O'MALLEY: Can we have the time fixed.

THE WITNESS: He was up there two or three days in my market.

Q The first time was when? A The first time was this way.

Q When was it? A I do not recall. It was just before the fire.

Q Now, tell us what Cohen said to Greco and what Greco said to Cohen? A I do not rec all every word.

THE COURT: About.

Q Well, about. A He said "I sent over my driver to get him, because my driver did not want to do the job, to set the fire--

MR. GILCHRIST: I move to strike that out.

THE COURT: Yes.

Q Tell us what was said between Cohen and Greco? A It was said to do the job.

Q What did Cohen say? A "Do the job", he said, "that is good money, \$200."

Q Did Cohen say to Greco, "Now, Greco, I will give you \$200 for this job, and I want you to do it, it is good money", or words to that effect? A Something like that, yes, sir.

Q And when he said that, what did Greco say? A Greco said that he wanted to have some money ahead.

Q And then what did Cohen say? A He said, "All right." He told Jacobs to give him some money out of the drawer.

Q How much did Greco say that he wanted Cohen to pay in advance? A I don't know if it was \$50 or \$100.

Q You heard the conversation? A I cannot recall things from four years ago.

CASE # 3244



THE COURT: He said \$50 or \$100.

243

Q You heard the conversation? A Yes, sir.

Q You did not take part in that particular conversation? A I was there at the talking.

Q But you did not take part in the particular talking between them? A No, sir, because--

Q You let them do their business themselves? A Yes, sir, and I know some of it.

Q All you did was to listen? A Yes, sir.

Q Anything else? A And talking--I just said a few words too.

Q Yes, and you said a few words? A Yes, sir.

Q Did you ever visit any of the penal institutions of this state? A I do not recall it.

Q The prisons? A Yes, sir.

Q What prisons had you visited? A The Tombs and 53rd street jail.

Q Is that all? A Yes, sir.

Q Never was in any other prison besides the tombs? and the 53rd street jail? A You mean since I came back from the other side?

Q No. Before you went? A Another time I went to see somebody over in Sing Sing, with Miss Sullivan.

Q With Miss Sullivan? A Yes, sir.

Q Who did you go to see with Miss Sullivan? A A fellow by the name of Frank Militelo.

243

Q A fire bug? A I don't know if he was a fire bug.

Q You know what he was sent away for, don't you?

THE COURT: How is that material.

MR. GILCHRIST: I just want to identify the man.

THE COURT: You went there to visit some one, did you?

THE WITNESS: Yes, sir.

Q Do you know a man by the name of Zalsman? A Yes, sir, a butcher.

Q Do you know a driver by the name of Zalsman? A No, I do not recall him.

Q Was Zalsman your butcher? A I guess so. We had a butcher by the name of Zalsman.

Q Was he the rabbi, as they call him? A No.

Q Didn't you have a man by the name of Zalsman working for you when you and Jacobs started in business together? A I do not recall it.

THE COURT: Do you know any one of that name?

THE WITNESS: I do not recall it.

Q Then after he left, didn't you have a boy by the name of Harry? A Yes, sir, a Jewish fellow.

Q You know that you had somebody before you had Harry -- doing the same kind of work that Harry did, do you remember?  
A I do not recall it.

Q You do not recall who it was, but you had somebody? A May be I had, but I do not recall it.

Q Don't you recall you had somebody without recalling who it

ASE #3244

was? A I had more than them. I had the rabbi and the driver and an old man that used to clean the chickens.

Q And then Sorro came to work for you about four or five months before you got out of business? A No, he came to work no more than Jacobs came in, and he used to hang around the--

MR GILCHRIST: I move to strike out all after the word "No."

THE COURT: Yes, strike it out.

Q He was not working for you when Harry was working for you, was he? A I know that he was laid off twice or three times. May be one week, for a week or a few days,--

Q Just answer the one question. Was he working for you when Harry was working for you? A I do not recall that.

Q Do you know a man by the name of Muxson? A Yes, sir.

Q And who is Muxson? A He is the man that fixes up the markets.

Q He is a man whose business is fixing up markets? A Yes.

Q After you had sold out your interest that you had with Jacobs in the Harlem Market, you went to see Mr Muxson, didn't you? A Yes, sir.

Q And engaged him for drawing the plans and doing some work with respect to the new market? A Yes, sir.

Q And you got a lease -- A I did not get no lease.

Q --off some place, didn't you? A No, sir.

Q At the time that you went to see him about fixing up the

new market, did you tell him that Mr Jacobs was going to be your partner? A No, sir, because I did not want to be--

Q Answer the question. Did you tell him or did you not?

A No, sir.

Q You understood that when you entered the new market, in Brooklyn, Cohen was going to back you, didn't you? A Yes.

Q And it was Dave Jacobs that told you that Cohen was going to back you? A No, sir.

Q Didn't Dave Jacobs tell you when you were selling out your interest, to pay the money to Joe, so that he could pay the debt, and then he would get Joe Cohen to back the enterprise again between you and him? A No, sir.

Q Wasn't it agreed by you and Jacobs that you should sell out your interest in the event that you could not sell out together? A Yes, sir.

Q And the man was a man who originally tried to negotiate for the whole business, didn't he? A I did not recall that.

Q Do you understand what I mean? A Yes, sir, but I do not recall it.

Q He talked about buying you both out at first? A I don't know.

Q He did not have money enough? A I don't know; I do not recall.

Q You do not recall? A No.

Q Didn't Mr Muxson tell you that before he could go on with the work for you in the Brooklyn chicken market, he had to see

ASE #3244

Mr Jacobs to see whether he was going to be responsible for the bill? A No, sir. He never went there either.

THE COURT: "No" is enough.

MR. GILCHRIST: And I move to strike the last part out.

THE COURT: Yes. Strike out all after the word "No."

Q You had no money, did you? A No, sir.

Q And you expected that Cohen was going to back you in the Brooklyn market? A Yes, sir.

Q Now, isn't it a fact that Mr Jacobs told you shortly after you paid the money to Cohen, which was the proceeds of the sale of your interest, that he was through with you, and would not have anything to do with any Brooklyn matter, or anything else?

A No, sir.

Q And isn't that the reason why you feel offended with Jacobs? A No, sir.

Q Didn't Jacobs advise you to pay the money to Cohen? A No.

Q The proceeds of the sale? A No, sir.

THE COURT: I understand you did pay the money to Cohen--all but \$50. Is that the money you refer to, Mr Gilchrist?

MR. GILCHRIST: Yes, sir.

Q Now, when were you first promised immunity in this case?

A I don't know anything about it.

Q Did you receive any communication from anybody in this country stating to you that they had arranged for your immunity?

A Yes, sir.

Q Who was that? A Miss Sullivan. I still kept up saying



"I don't know nothing about it."

Q Don't mind that. Now, you have answered the question. I don't know whether this question was asked you before or not: Who is Juliano? A I cannot tell.

Q Is that the same person that is called Gagliano?

THE COURT: Yes.

Q And he was Greco's partner? A I don't know if he was his partner, or if he worked there.

THE COURT: He explained that yesterday.

Q Didn't you tell Miss Sullivan that he was Greco's partner?

A May be I did; but I aint sure if he was his partner, or if he used to work there.

Q You identified a man here in court the other day, Moses Gross, and said that you were eating with him after the time you were in the bath? A Yes, sir.

Q Immediately after coming out of the bath? A In the bath.

Q You were eating in the bath place with him? A Yes, sir.

Q Not out in some restaurant? A No.

Q Sitting down around the table? A Yes, sir.

Q Do you remember when that bath incident was? A I know it was in the summer.

Q With respect to the murder--how long before the murder was it? A Oh, a long time,-- may be eight or ten months before.

Q It was not after the murder? A No, sir.

Q Is the man or one of the gunmen that killed Baff, walking the streets? A I refuse to answer the question.

Q And I suppose you likewise refuse to answer whether he is in custody? A I said it yesterday.

Q Do you remember telling anybody that he was walking the streets? A Yes, sir.

Q Who did you tell? A I do not recall to who. I passed a remark like that.

Q If you passed such a remark were you telling the truth to that party? A Yes, sir.

Q So he is walking the streets? A I refuse to answer the question.

Q Or he was at that time? A I refuse to answer the question.

Q Do you remember when you made that remark? A No.

Q Let me see if I can refresh your memory. Wasn't it on the Monday after last Good Friday, at the hospital? A I do not recall.

Q You were at the hospital at that time? A I do not recall.

Q Weren't you at the hospital on Good Friday? A Yes, sir, but I do not recall if I was sure there.

Q You do not recall that Mr Jacobs when he first came to Harlem, hired a man by the name of Zalsman to drive for him?

A I do not recall.

Q Jacobs ran the business principally? A Yes, sir.

Q He hires the help? A Some of it.

Q And pays the help? A Yes, sir.

Q Do you remember the name of the rabbi? A No, sir.

Q How long did you have the rabbi there. Was it the same

rabbi during all the period? A All the business-- since the first day we opened up until I sold.

Q Do you remember where the rabbi lived? A 113th street somewheres.

Q Somewheres. Can you give us it any more definitely? A It is between Madison and Park.

Q And you don't know the number? A No, sir.

Q What is his name, did you say? A I do not recall his name.

Q Did Mr Muscia ever tell you that he went over to visit Mr Jacobs? A No, sir.

Q In company with your father in law? A No, sir.

Q Or with any one else? A No, sir.

Q And did any one else tell you that they went over to visit Mr Jacobs with Muscia? A No, sir.

MR. GILCHRIST: That is all.

THE COURT: Any redirect examination, Mr O'Malley?

MR. MOSS: There are one or two questions I would like to ask this witness.

THE COURT: All right, proceed.

BY MR. MOSS:

Q You have perhaps refreshed your recollection since I talked with you, and I ask you wasn't it \$4,000 that you originally invested in that business? A Yes, sir.

Q Didn't you and your whole family marshal all your resources and put them in that business? A Yes, sir, they helped me out.

Q And the building that you took was an old stable, wasn't it?

ASE #3244

Q That had to be torn down and made all over? A Not torn down  
Q Well, changed over. And you worked at that together with  
your brother in law? A Yes, sir.

Q And then you found that was not good enough and you had  
to hire somebody to finish it up, didn't you? A Yes, sir.  
The Board of Health inspector told me that.

Q Yes. The Board of Health Inspector would not pass it.  
And you paid a man \$500 to finish up the work? A Yes, sir.

Q And having got this place started, you began to do busi-  
ness right away, didn't you? A No, sir. After about five or six  
months we started in to do business.

Q Now, you did circulate a boycott agreement among the  
chicken men up there, didn't you?

THE COURT: Did you take around a boycott agreement  
among them?

THE WITNESS: Yes, sir.

Q Was there a picture upon that agreement that you wanted  
signed up there, of a man with a pistol? A No, sir.

Q You found after you had been doing business a little  
while that you were losing money, didn't you? A Yes, sir.

Q And you were not losing money because you did not have  
credit, were you? A I don't get that.

Q You were not losing money because you did not have credit,  
were you? A I was losing money, if you want me to answer--

THE COURT: Proceed and answer.

A (Continuing) Because down in the market we did not have no credit; no matter where we buy chickens they charged us more because we were Italians, and they could flimflam us like.

That is the way in that business.

Q You made an affidavit which Mr O'Malley has produced here, on the motion for a new trial in the case of Arichiello?

A Yes, sir.

Q Did you say this in the affidavit when you were speaking of losing money: "It was not for lack of credit because Joe Cohen guaranteed the credit of Cardinale & Jacobs for anything we wanted in the market." Did you say that in your affidavit? A I do not recall. I guess I did.

Q Well, is it true? A Yes, sir.

Q And did you say, "The reason that we were losing money and in fact all the other slaughter house men like us were losing money, were on account of the activities and treachery of the firm of Barnet Baff & Company." Did you say that?

A Yes, sir.

Q This is your own statement? A Yes, sir.

Q None of the defendants were present when you made this affidavit. Is that right? A Yes, sir.

Q And you felt that right down in your own heart? A Yes, sir, right here (indicating).

Q That Barnet Baff was treacherous and that he was the cause of the losing of the money? A Yes, sir.

Q And did you say this: "Barnet Baff was certainly a bad

ASE #3244



man, and he was putting us all out of business; many and many a time he had remarked right in the market, 'I will make every one of you close up, my name is Baff, and you have got to listen to me, I make enough to make every one of you close up'. A Yes, sir.

Q "It was this Baff that was taking away all the profits?"

A Yes, sir.

Q Is that what you said? A Yes, sir.

Q Did you also say, "He used to threaten us slaughter house men right and left, he used to say, 'If you don't buy of me you cannot get any chicken.' And then in the paper we would see that Baff would advertise chickens in his market at a half cent or a cent per pound cheaper than the market quotations." Did you say that in the affidavit? A Yes, sir, I said that, but I did not read the papers myself.

Q Then you said, "My firm was losing on an average \$60 to \$75 a week through Baff's quotations, and all the other dealers of the same rank that I was were losing the same; he would sell to his numerous retail dealers at the same price that we would have to pay wholesale at the market; also the chickens that he would sell had been stuffed with gravel, stone and cement on the train, so that when you got them in your place their crops would be stuffed up with a sort of rock, and their weight would increase almost half a pound a chicken." Did you say that? A Yes, sir.

Q And you took some of these chickens to some friends and

opened up their crops, and showed them, didnt you? A Yes, sir--  
to Miss Sullivan.

Q Now, at the time that you made this change so that you  
got the gunmen instead of Greco, didn't you do that yourself?

A You mean the last two?

CASE # 3244

Q Yes, the last two? A Yes, sir, because Ippolito Greco told me to get them -- to speak to them.

Q Now, I ask you if you said this in your affidavit: "So I complained with Ippolito Greco and told him that on account of him I was getting the reputation of a fakir. So Ippolito Greco told me, he said 'What do you want me to do, I have tried everything; so I said to him 'Why do you bother with all these people that cannot do anything, why don't you get somebody else that will keep his promise'; so Greco told me, he says 'What do you want for the money that you are spending \$800. is no money for this job'; he said to me 'Maybe you can get other people, but they will never do it for this price'; so he mentioned to me the names of two people that were supposed to be real good fellows; Ippolito said 'Of course you can ask them to do it but they will never do it for this money'; so I said to Ippolito Greco, I said 'It is your duty to keep your promise', I said; and Ippolito Greco said 'Well, I don't consider it an affront, if you are not satisfied you can go and get whoever you want'". Do you remember that in the affidavit? A Yes, sir.

Q Now, did Ippolito Greco say to you "I don't consider it an affront"?

THE COURT: Did he use that word "affront"?

THE WITNESS: No, sir. I don't think I could pronounce that word myself.

Q Why, no. Who put that word in the affidavit? A Maybe

the lawyer.

243

Q What lawyer? A Mr. Deuel.

Q Was Mr. Musica present when this affidavit was being discussed? A No.

Q You told us that he translated the different words?

A Not all the time.

Q Is that Musica's word "affront"? A I guess this is Mr. Deuel's, because I made that statement to Mr. Deuel.

THE COURT: Mr. Deuel is your lawyer?

THE WITNESS: Yes, sir.

Q I read as follows: "As Ippolito Greco was a very bad man I did not want to be bad friends with him; I said to him 'Ippolito, I don't want to offend you in any way, but you know these chicken people in the market and especially Joe Cohen is raising hell and they want this job done quick, so you must not feel offended, I will try to get these two fellows that you just mentioned to do the job'; so Ippolito Greco said to me 'I will not be offended, in fact I will help you, I will tell you what to do, you speak to them and offer them the job and I will also speak to them'; 'why', I said to Ippolito Greco 'all right, we will fix it that way, I will see the fellows and I will tell them that you sent me to them'. Ippolito Greco said 'All right, I will fix them and tell them it is all right'. I did this with Ippolito Greco because Ippolito Greco had peddled this job all over Harlem and pretty near every member of his gang knew something

CASE # 3244

about it, and no other fellow would take this job knowing that Ippolito Greco had had it, and of course you know there is plenty of jealousy even between those fellows that do these jobs, and if one gang takes a job away from the other, there may be some gang fight. So I went to work and spoke to one of the fellows that Ippolito had mentioned. Of course I knew them from the neighborhood and they knew who I was because they hung around the neighborhood. I also knew these fellows through friends of mine, and of course they knew a good many I knew, and I knew a lot of friends of theirs. So after leaving Ippolito Greco I went over and met one of them by previous appointment and I told him to come over and see me in my market, that I had something to tell him; that night he came over and I met him and I made him the proposition that he would take the job to kill a fellow in the market who was making a lot of trouble and driving all the chicken people out of business. So he asked me if Ippolito Greco had anything to do with it. And I told him 'No, Ippolito Greco is out of it, I am through with him'. Then he asked --

MR. O'MALLEY: I think there ought to be some limit to this. I object to his getting it in in this way.

MR. MOSS: Any portion of the affidavit that either side considers material in the action, can be offered by that side, I think.

THE COURT: Are you about at the end of it?

MR. MOSS: I am nearly through with the quotation.



THE COURT: Well, proceed.

Q I continue as follows: "Then he asked if Ippolito Greco would be sore if somebody else took the job. And I told him no, in fact, Ippolito Greco would tell him so. He said he would take the job provided Ippolito Greco and his gang were not mixed up in it at all".

THE COURT: Did you state all that has been read?

THE WITNESS: Yes, sir.

Q Then he mentioned a pal he wanted, you say. Did the fellow mention a pal?

THE COURT: Did you say that in the affidavit?

THE WITNESS: Yes, sir.

Q And you say "The name of the pal he mentioned to me is the other gentleman in the case and I have given his name in confidence to my counsel Mr. Deuel". Did you state that?

A Yes, sir.

MR. MOSS: There is quite some more of it, your Honor, that I want on the record.

THE COURT: Very well. We will take our usual recess now.

(The Court duly admonished the jury and a recess was taken until 2 P. M.)

CASE # 3244

BY MR. MOSS:

Q Have you been advised that if you were tried for the murder of Barnett Ruff and were convicted in Italy that under the law of Italy you could not be executed? A No, sir.

BY THE COURT:

Q That you couldn't be put to death, have you been told that? A No, sir.

BY MR. MOSS:

Q Have you been advised that a subject of Italy tried for a crime committed abroad and convicted might only be imprisoned for a number of years? (No answer)

BY THE COURT:

Q Were you told that? A No, sir.

BY MR. MOSS:

Q Don't you know that that is so? A I don't know anything about the law.

Q Have you asked counsel what would happen to you if you were convicted in Italy? A No, sir.

Q You paid no attention to that? A No, sir.

Q That was because you had an understanding with the District Attorney, wasn't it? A No, sir.

Q Didn't you have any? A I never had one.

Q You didn't have any understanding with the District Attorney? A No, sir.

Q You never had any immunity? A No, sir, not that I

know of.

BY THE COURT:

Q Any promise? A No, sir.

BY MR. MOSS:

In your affidavit,

Q You say that you made a statement to your counsel, and shortly after making the statement you consented to tell the entire truth, and reveal the entire plot of the murder of Barnett Baff with one exception, that you reserved the right not to reveal the names of the gunmen, -- did you say that in your affidavit? A Yes, sir.

Q Did you say, "My motive in doing this was, first, that I was not at all anxious to confess, and second, I had no desire to implicate these two gunmen, as I was positive that it would cause a great deal of annoyance and displeasure amongst their relatives and friends, and also for fear of bodily harm to members of my family." Did you say that in your affidavit? A Yes, sir.

Q You are not afraid of them, are you? A I refuse to answer that question.

Q Did you tell Mr. Kopp yesterday that you did not reveal their names to them because you got them into this trouble and you didn't want to get them into any more? A Yes, sir.

Q You say further in your affidavit: "I was informed by my counsel that the District Attorney accepted my condition. I was thereupon informed that the District Attorney had reduced to writing his acceptance and would grant me immunity

CASE # 3244

from prosecution here and abroad if I would agree to tell my story with the exception of the gunmen."

BY THE COURT:

Q Did you make that statement in your affidavit? A Yes.

BY MR. MOSS:

Q Was it true? A As I recall it, yes, sir.

Q You swore to it? A Yes, sir.

Q It was prepared by your counsel? A Yes, sir.

Q "I was further promised that the District Attorney would see to it that I would be discharged from custody in this country and thereby also relieved of services in the Italian Army."

BY THE COURT:

Q Did you say that? A I don't recall that.

BY MR. MOSS:

Q Did you? A I might have, but I don't recall it.

Q "I made it very clear to my counsel that my idea was not to be prosecuted in Italy, because in Italy there is no such thing as immunity, and that is one reason that I insisted that I be released from custody in this country. After the immunity agreement was signed by the District Attorney and the Court it was shown to me and it was perfectly satisfactory to me." Did you say that? A Not exactly the same, but I guess it is so.

Q The substance of it you said and swore to? A Yes.

Q And it was true, was it? A I don't know if it is true  
vet.

4  
BY THE COURT:

243

473

Q It was true at that time? A Yes, sir.

BY MR. O'MALLEY:

Q Do I understand you to say that you were in the 53d street prison? A Yes.

Q Not in the 57th street prison? A No, sir.

ABRAHAM LOWENSTEIN, recalled for further examination, testified as follows:

DIRECT EXAMINATION BY MR. BECKER:

Q Mr. Lowenstein, were you at one time an officer of an association of poultry dealers? A Yes, sir.

Q What was the name of that association? A New York Live Poultry dealers' Protective Association.

Q Can you recall when it was formed? A In May, 1913, May or June, the latter part of May.

Q What office did you have in the association? A Secretary

Q Was the defendant, Joseph Cohen, an officer too? A Yes.

Q What office did he hold? A Treasurer.

Q Was William Simon, of the firm of Simon & Cohen, an officer? A Not at the start, he was at the second election.

Q Can you state about when he became an officer? A He became an officer the 28th of december, 1913.

Q What office did he hold? A President.

Q How long did your connection with the Association continue? A The latter part of April, 1914.

Q What class constituted membership? A Slaughter house

ASE #3244



dealers.

Q Were you present at the organization meetings? A Yes.

Q Where were they held? A 18 Tenth avenue, -- that was after June 1st, they were held at 18 Tenth avenue.

Q Prior to that, were there one or two meetings at the Stuyvesant Casino? A Yes, sir.

Q Do you recall the date of that first meeting? A I think it was the 25th of May.

BY THE COURT:

Q What year? A 1913. I ain't positive on them dates, it might be the 26th or the 27th.

BY MR. ENCKER:

Q What day of the week was it? A Sunday.

Q Was the defendant, Joseph Cohen, present throughout the meeting? A Yes, sir.

Q Was William Simon present throughout the meeting? A Yes.

\*Q About how many poultry dealers were present? A Between seventy and eighty.

Q Were officers elected at this meeting? A At the following meeting.

Q When was that second meeting held? A Two days later.

Q Was the defendant, Joseph Cohen, present at that meeting? A Yes, sir.

Q Was William Simon present? A Yes, sir.

Q You may state generally if they were present at all of the meetings of the association. A They attended most all

the meetings.

Q At the first meeting, held on Sunday, were there any speeches or addresses made? A There was quite a few of them.

Q Do you recall about how many poultry dealers were present? A At the first meeting between seventy and eighty.

Q Can you tell us whether there was a speech made by William Simon at the first meeting? A There was; yes, sir.

Q Can you state the substance of it? A That I couldn't very well state.

MR. KOPP: I ask your Honor to instruct the jury that whatever speeches were made at that meeting are not binding on the defendant Graff.

Objection overruled. Exception taken by Mr. Kopp.

BY THE COURT:

Q Cohen, you say, was present? A Yes, sir.

Q Joe Cohen? A Yes, sir.

MR. MOSS: I object for the Cohens, on the ground that any speech made by Mr. Simon is not to be charged to them.

THE COURT: Only the fact that they were present there and heard it.

BY MR. ECKER:

Q Was there another Joseph Cohen? A Yes, sir.

Q Sometimes known as Flushing Joe Cohen? A Yes, sir.

Q Did he hold office in this Association? A He was president.

SE 73244

BY THE COURT:

Q Was this defendant, Joseph Cohen, -- was he present at this meeting when Simon made the speech? A He was present at all the meetings.

Q This defendant? A Yes.

BY MR. BECKER:

Q This defendant was Treasurer of the Association? A Yes.

Q And the other Joseph Cohen, sometimes called Flushing Joe Cohen, was present at the organization? A Yes.

Q Where did this Flushing Joe Cohen have a place of business? A Flushing avenue, Brooklyn.

Q Was any other nick-name used to distinguish this Flushing Joe Cohen from the defendant Joe Cohen? A I had them ~~defendant~~ on my book as Joe Cohen No. 1 and No. 2, and sometimes called this Joe Cohen Big Joe Cohen.

Q You may state the substance of the speech made by William Simon at the meeting of May 25th, on Sunday, as near as you can recall it.

MR. GILCHRIST: I object to it as against David Jacobs it is immaterial, irrelevant and incompetent.

Objection overruled. Exception by Mr. Gilchrist.

THE COURT: Why not confine it to the subject that is material? Was it about Eaff or his methods?

MR. BECKER: I will amend the question accordingly.

MR. GILCHRIST: I further object on the ground that it has not been shown that David Jacobs was present at the meeting.

243 477  
Objection overruled. Exception by Mr. Gilchrist.

BY THE COURT:

Q State if anything was said on the subject of Baff, or Baff's business methods, how they affected the poultry business, if he said anything. A That is a very hard thing to recall.

Q Do you recall any of it? A Not alone Baff, but every one in the market.

Q Did he mention Baff's name? A Yes, sir.

Q What did he say in that connection? A The only thing I can recollect was that Baff was over feeding his poultry and selling below cost and they were losing money by it.

BY MR. BECKER:

Q His reference to Baff was that Baff was over feeding, did I understand you? A Yes.

THE COURT: You have it all now, the over feeding and underselling.

BY THE COURT:

Q Was Cardinale present? A He was present at the second meeting.

Q No, but that meeting when this speech was made by Simon?  
A I don't remember that.

Q Did he belong to the association? A Yes, sir.

Q And attended the meetings generally? A No, he didn't attend very often.

Q Not often? A No.

CASE # 3244

BY MR. BECKER:

Q Were there other speeches made at that meeting in which against charges were made by Barnett Eaff? A Pretty near every one who got on the floor was speaking against Eaff that night.

Q When was the next meeting held at which officers were elected? A Two days after the first one, the 27th.

Q That would be on the following Tuesday? A Tuesday.

Q Was it at that meeting that the election occurred?

THE COURT: He said so.

Q Were other speeches made at the second meeting? A The second meeting, I can't recollect the speeches there, because they organized to collect dues, for the collection of dues.

Q Do you recall a speech made at the first meeting by a man named Jacob Adler? A Yes, he spoke pretty nearly at every meeting, I recall the first meeting also.

Q Do you remember anything he said with reference to Barnett Eaff?

MR. MOSS: I object, reserving my exception made on the previous question, unless it is shown that Joseph Cohen was present.

Q I am referring to the first meeting --

BY THE COURT:

Q Was Joe Cohen, this defendant, present when Adler spoke?

A Yes, sir.

MR. GILCHRIST: I raise the same objection, unless it is shown that Jacobs was present.