

was not.

Q Its width? A No, sir.

Q The wound was an incised wound on the left side, puncturing the kidney? A Laparotomy was performed, the kidney was explored, and found punctured.

Q Can you tell from the record how long Florence McCarthy was in the hospital; did you notice it?

A I didn't notice that.

Q Did you notice as to gentile, the same question?

A No, sir; I did not.

CROSS EXAMINATION BY MR. BROWN:

Q Are you sure that the record showed that it was a stab wound? A I am positive of that.

Q Positive of that? A Yes, sir.

Q Is there any information -- could you get any inkling from the record as to what kind of an instrument, what kind of an instrument it was that made that wound?

A No, sir.

Q You did not examine the wound yourself?

A No, sir; I did not.

Q You don't know how it was treated? A No, sir; I do not, except operated. I know the general procedure that would have followed an operation of that kind.

Q You don't know how many stitches were taken in

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Gentile? A No, sir; the record does not show.

Q You don't know how many days Gentile stayed in the hospital? A No, sir; I do not.

Q You don't know how many days McCarthy stayed in the hospital? A I do not.

Q You don't know -- does the record show how deep either of the wounds were? A It did not; except that the wound was deep enough to enter the kidney.

Q Doctor, what do you mean by a stab wound?

A A stab wound is supposed to be any wound made by a sharp instrument.

Q Any wound made by a sharp instrument?

A Yes, sir.

BY MR. MANLEY:

Q A wound made by a razor, would you consider that a stab wound? A If made with a razor, that would be considered a stab wound.

Q In legal parlance? A Yes, sir.

G U I S E P P I R U F F O, a witness for the People,
recalled:

CROSS EXAMINATION CONTINUED BY MR. BROWN:

Q After Gentile had gone to the roof you and your two friends went to this restaurant? A Yes, sir.

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Q Did all three of you give an order? A Before we had come out of the restaurant we had given our orders.

Q I am not talking about when you came out. I am talking about when you went in there now? A When we went in we gave our orders.

Q How long did you stay in there waiting for your orders? A About a quarter of an hour.

Q You saw Brown and Roberts before you went in there? A We had entered the restaurant and gave our orders for the meal; then we had a call of nature and we went outside; on the way out we saw this Gentile full of blood and we went to ask him what was the matter.

Q Who else did you see besides Gentile?

A Only Gentile.

Q Only Gentile? A Yes, sir.

Q You didn't see McCarthy? A No, sir.

Q You didn't see Joseph Messo? A No, sir.

Q You didn't see John Coster? A No, sir.

Q You only saw Gentile? A Yes, sir.

Q Now, when did you return to the restaurant after you had this call of nature? A After Peter Gentile was chased up to the roof then I went back to the restaurant.

Q Did your friends go back there with you?

A Yes, sir.

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Q After you got back to the restaurant when was it, how long was it before you saw Brown and Roberts at the restaurant door? A About eight minutes.

Q How many were there? A Three, and the policeman made four.

Q Three? A Yes, sir.

Q Did Brown have the razor in his hand then?

A When he was running after us he had the razor.

Q I am talking about before the restaurant?

A I don't know what he did with the razor after, but when he was running after us he had the razor.

Q Did he have a guitar in his hand? A One had a guitar.

Q One of the three? A Yes, sir.

Q Was it Brown? A I don't know who was the one that had the guitar, which one had the guitar.

Q Were ~~xxx~~ they talking with the police?

A The three were talking to the police.

Q In front of the restaurant door? A Yes, sir.

Q In what direction did he go with them?

A The police came from West End avenue, and when he went away he went towards No. 320 West 69th street.

Q With these three men? A Yes, sir.

Q Did you hear anything that the policeman said to these three men in front of that restaurant? A No, sir;

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because I could not understand the English language.

Q Why did you follow the police down to 320 where they went? A I didn't go after them; I stood at the door of the restaurant and saw them going there.

Q Didn't you say you followed them down to 320?

A I saw them when I was on my way to go home, saw them there when I went upstairs to my own house.

Q Isn't it a fact that these men began talking to the policeman in front of 304, that restaurant, with the policemen, and said that you three fellows that you went down into the restaurant with had assaulted one of them?

A How can I tell you when I tell you I do not understand the English language.

Q You don't understand it? A No, sir.

Q How long have you been in this country?

A Five years.

Q You have not leanned the English language?

A No, sir; because I have no time to study; I have to go to work.

Q Where did you work that day? A I was a rockman up in 34th street that Saturday, and this happened on Sunday morning.

Q You were doing what? A I was a rockman, breaking rocks.

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Q Breaking rocks in the day? A In the day.

Q What do you do at night? A I sleep at night.

Q You weren't asleep that night at half past one, were you? A Why should I go to sleep so early when I know I got the whole Sunday to myself.

Q Now, you lived in 309 West 69th street?

A yes, sir.

Q Do you know that McCarthy's brother lives in that house? A yes, sir.

Q Had you ever seen McCarthy in that house?

A I saw him, but he works as a bartender every day.

Q In that house? A Yes, sir; No. 309, he is a bartender.

Q What floor did you live on in that house at that time? A Used to live on the second floor.

Q What floor did McCarthy live on? A I do not remember, because I didn't know at that time what floor he lived on.

Q How often had you seen McCarthy before that night?

A You mean the bartender?

Q McCarthy, the young man that got hurt?

A I never saw him before that night.

Q You never saw him before? A No, sir.

Q Sure he wasn't with you in that restaurant before

you went to the park? A No, sir.

Q He wasn't in that saloon before you left the saloon at half past twelve? A No, sir.

Q Was Gentile in this saloon? A No, sir.

Q When before that night had you seen or known Gentile?

A Yes, sir; I knew him.

Q How often had you seen him? A I knew him since from Italy.

Q Do you know what house he lives in? A I don't remember what house he lives in.

Q Does he live in that street? A yes, sir.

Q Now, have you ever been convicted of crime?

A No, sir.

OFFICER MICHAEL A. KILLGALLEN, a witness
called on behalf of the People, being duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q Mr. Killgallen, in what precinct were you upon May 15th, 1910? A The 28th precinct.

Q Now, some time on that evening, that is the early morning of the 15th, Sunday, were you in the vicinity of West End avenue and 69th street? A I was.

Q Was it your post? A Yes, sir.

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Q Did it cover the south side of 69th street west of West End avenue? A Yes, sir.

Q What time did you go on post? A Eight o'clock Saturday evening.

Q You were there from eight o'clock Saturday evening until how long? A Until two o'clock Sunday morning.

Q Were you in uniform? A Yes, sir.

Q Now, some time that night did you see this defendant Brown? A Yes, sir; I did.

Q Had you ever seen him before that night?

A No, sir.

Q Where was Brown when you first saw him?

A 329 West 69th street.

Q On the street or inside? A Standing in the hallway.

Q Did you say anything to him? A I asked him ---

Q Did you say anything to him? A Yes, sir.

Q Did he talk first or you talk first?

A I spoke first.

Q Before that had you had any talk with anybody as to any row having taken place that night in that block?

A Yes, sir.

Q Who was that person? A Some citizen.

Q Who was that person? A I do not know.

Q Do you know who that citizen was? A No, sir.

Q Where was that citizen when he said something to

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you? A 69th street, on the southwest corner of West End avenue.

Q Can you tell us his nationality, was he an Italian or a colored man? A An Italian.

Q Was he any of the witnesses we have had in the case here? A No, sir.

Q Now, did you go anywhere as a result of what that man said to you? A Yes, sir.

Q Where was it you went? A 329 West 69th street.

Q Did you see anybody there besides the defendant, Charles Brown? A I saw Brown and the other colored fellow Roberts, and another colored man, and I asked ---

Q Three of them? A Yes, sir.

Q They were standing together? A Yes, sir.

Q In the hallway? A Yes, sir.

Q How did you happen to go to that particular number, was it as the result of what this man told you?

A Information I received off that man that was down the block; three colored people down the block.

Q Did you say anything to Brown when you got there? A Yes, sir.

Q What did you say to him? A I asked him what seemed to be the trouble.

Q What did he say to that or the other man, the unknown colored man, say in his presence? A Brown spoke up and

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said he left his house to go out on an errand and he got into a muss with some boys in the neighborhood.

Q Was this defendant at that time carrying any musical instrument? A No, sir.

Q Was either of the other two at that time carrying a musical instrument? A No, sir.

Q Can you give us any idea about what time that was? A Five minutes of two.

Q How is that you fix the time as five minutes of two? A I was making the last round, trying my doors, I was to go in at two o'clock, my relieving point was at 65th street and West End avenue, and I gave myself five minutes to get down there.

Q Did this defendant, Charles Brown, at that time say anything else to you besides that? A No, sir.

Q Did the defendant Roberts, in the presence of this defendant Brown, say anything to you about any trouble? A No, sir.

Q Did the unknown colored man, in the presence of this defendant Brown, say anything to you about any trouble? A No, sir.

Q Was this conversation right at the steps of that house? A I walked them up the block.

Q Where did you go with them up the block?

A Up to 306.

Q Did you go to any restaurant with them?

A yes, sir; I went in the restaurant.

Q What restaurant did you go to? A I don't know the name of it; it was run by a colored man or was at that time; it is not any more.

Q Do you know the number? A 304 or 306.

Q Is it the basement or the ground floor?

A In the basement.

Q Did you take them inside, the three men? A I took them as far as the door.

Q Why was it you took them to that restaurant?

A They claimed that the boys they had the muss with was in there; I told them to come on down there, point out any one they wanted to make a complaint against, and I would lock them up on their complaint.

Q Tell us what happened when you got the three colored men to the restaurant? A I took them into the store, as I said, told them to point out anybody that was in there that they claimed had done them any wrong and I would make an arrest upon their complaint.

Q What did Brown or the other two men say in his presence? A Why, Brown didn't say anything; Roberts says, "All of them". I said, "Point out any one now that

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you claim insulted you or done you any harm". So he couldn't point out any one in there or any couple in there.

Q Could any one of the three point out anybody they claimed in the restaurant had done anything to them?

A They did not.

Q Can you give us any idea how many were in the restaurant at that time? A About four, and the proprietor's wife.

Q Do you remember the names of any of them in the restaurant; do you recognize any of the witnesses here as being in the restaurant? A The only one I recognize is the one who had the stand before me; I don't know his name.

Q Ruffo Do you mean the one going out as you came in? A Yes, sir.

MR. MANLEY: By consent we can state that that is Ruffo.

BY MR. MANLEY:

Q Now, did either of the three colored men, that is this defendant Brown, or the other two, in the presence of Brown, give you any account of what had taken place that night? A No, sir.

Q Did you get a good look at each of these three men? A Yes, sir.

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Q Did you see any marks upon any one of the three?

A No, sir.

Q Did any one of the three give you any other explanation as to how they got into a row with somebody?

A Yes, sir; they told me, this Mr. Brown told me he went out on an errand and got into a muss with some boys in the neighborhood.

Q Is that everything Brown told you? A Yes, sir; as far as I can remember.

Q Did the other two men tell you anything about what this row was? A No, sir.

Q Did any one of the three tell you anything about a razor having been used upon anybody? A No, sir.

Q Did any one of the three tell you about anybody having got cut? A No, sir.

Q Do you know who this third man was besides Roberts and Brown? A I never saw him before.

Q Have you seen him since? A No, sir.

Q Did you get his name that night? A No, sir; I did not.

Q Now, did any one of the three colored men that night tell you their names? A No, sir.

Q Did they complain of any wound upon them, any marks upon their person, any of the three?

A No, sir; they did not.

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Q Now, did you have anything to do with what happened later on, with the arrest of the defendant or the arrest of Roberts later on in the evening? A No, sir; I went home at two o'clock; I informed my side partner of what occurred, told him to look it up.

Q What do you mean by your side partner?

A The man who relieved me.

Q The man who relieved you? A Yes, sir; at two o'clock; I told him there had been some sort of a fuss in 69th street; to station himself up there, there might be a repetition of it.

Q What was the name of that man? A William Longet and John O'Toole.

Q They were both uniformed men who went on duty at two o'clock in the morning? A Yes, sir.

BY THE COURT:

Q Now, these young Italians --- were they the men that first called your attention to the trouble?

A No, sir; it was an elderly Italian on the corner. He informed me there had been some cutting down there; these colored people ran in the hallway; I looked down there and I saw three gentlemen stick their heads out; I started to investigate, walked down and asked what was the trouble and they told me there had been a fuss with some boys in the neighborhood.

Q The defendant said? A Yes, sir; there had been some fuss.

Q Who told you that? A The defendant said that he had a fuss with some boys.

Q Is that it? A Yes, sir.

Q Is that correct? A Yes, sir.

Q He said he had been out on an errand?

A Yes, sir.

Q While out there he had a fussy with some boys?

A Yes, sir.

Q Did you ask him about the cutting? A I ordered them to walk up the block as far as where this Italian was, to find out what they knew about it. When I got up there this Roberts started to say there was a bunch of boys in this restaurant. So I told him to come on in.

Q That was 304? A Yes, sir; or 306, I am not sure which. So I asked him to point out the boys in there that interfered with them and they could not do it.

Q Now, when was the first time, Officer, that anybody identified this defendant as one of the assailants?

A In the Flower Hospital, on that same day--Monday afternoon.

Q Who identified him? A Both Gentile and McCarthy.

Q Anybody else? A No, sir; not that I know of in the hospital where I was with them.

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Q You didn't have anything further to do with the case, as I understand it, until after the arrest of Brown and Roberts? A No, sir.

Q Is that so --- you went with them to Flower Hospital? A Yes, sir.

Q That is how many days after this, after this Sunday morning? A I believe it was Monday afternoon that we went to the hospital.

Q You didn't have anything to do with the case from the time of the investigation you have just told us of until the afternoon, you think, of Monday? A No, sir; I had nothing to do with the case further.

Q Who went to the hospital with you? A Detective Callanan and the keeper of the prison --

Q Was Callanan at that time also attached to the 28th precinct? A Yes, sir.

Q Now, tell us what took place when you got to Flower Hospital? A We took Brown and Roberts into the ward there. First we took them to Gentile and asked him did he know any of the men that stabbed him, cut him, he says, "Yes". I said, which one of these two was it; he pointed out Brown. I said, "Did the other fellow have anything to do with it"; he said, "He hit me on the head with a club, he made me jump from one roof to another, knocked me off one roof to another." Then we took them to

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McCarthy's bed and we asked McCarthy did he know any man here, any of them injure him in any way, he said, "Yes", and pointed out Brown as the one who stabbed him.

Q They were both in bed at that time? A Yes, sir.

BY THE COURT:

Q What did Brown say when McCarthy identified him?

A never said a word.

Q What did he say when Gentile identified him?

A I didn't hear him say anything, your Honor.

Q Did either Brown or McCarthy tell you how the matter occurred? A I did not question him that day, your Honor, they were very ill.

Q Did you ever question them at any other time as to how the thing happened? A I had a conversation with McCarthy regarding the case.

THE COURT: Would you mind, Mr. Brown, if he states what that conversation was?

MR. BROWN: I am willing. Let him state everything.

THE COURT: The defendant is entitled to except to it.

BY THE COURT:

Q State to us now everything that McCarthy told you as to how the thing began?

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MR. MANLEY: May we have the time and place fixed. Of course, it is absolutely incompetent as evidence.

BY THE COURT:

Q When did McCarthy say it and where?

A I am not exactly sure of where McCarthy said it; it was right after, I believe, he got out of the hospital he told me -- it was right after he came out of the hospital, I could not state the time exactly.

Q Tell us what it was? A He said he saw a fight down the street, he ran down there, and just as he got into the crowd, he says, this Brown slashed him with a razor.

Q Well, did he hesitate in his identification of Brown?

A No, sir.

Q Not at all? A No, sir; brought the two of them in together, Brown and Roberts, asked him if he knew either one of the men; he pointed out Brown.

Q Did he say whether or not he had ever seen Brown, the defendant, before? A I could not say that, your Honor.

Q He did not say? A No, sir.

CROSS EXAMINATION BY MR. BROWN:

Q How do you spell your name? A Kilgallen.

Q How long have you been on the police force?

A I will be three years on it in July.

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Q How long have you been in that precinct?

A The same length of time.

Q Three years? A Yes, sir.

Q Are you in that precinct now? A Yes, sir.

Q Have been ever since? A Yes, sir.

Q Will you tell this jury when you first saw this man and Roberts and the otherman? A Yes, sir.

Q Where? A Five minutes to one, or five minutes to two, that Sunday morning.

Q That Sunday morning? A Yes, sir.

Q Where did you see them? A 329 West 69th street.

Q Where were they? A In the doorway.

Q Were you looking for them A I went down and saw them there.

Q Why did you go there? A Upon information I got off the Italian, a man on the corner, that some cutting had been done there, the negroes ran into that hallway.

Q The negroes ran in that hallway? A yes, sir.

Q Where had you been when you went down to 329?

A Well, I don't understand your question.

Q Where had you come from when you went to 329?

A I came from ---

Q On your beat? A I came up West End avenue.

Q How far up West End avenue does your beat extend?

A 69th street.

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Q That is the end of it? A Yes, sir.

Q Where were you at the time of this fracas?

A I don't know.

Q Did you know where you were immediately before this, before you came to 69th street? A Some part of my post, a four block post.

Q Well, is your post so large you can't tell us?

A 65th to 69th street, I don't know what time the fracas occurred.

Q On what avenue? A West End avenue.

Q 65th to 69th street? A Yes, sir; on West End avenue.

Q Sure then that you were not off West End avenue?

A I have got half way on each side too; I may have been in the side streets.

Q How many side streets do you cover? A Five, from 65th to 69th, and half way each block, east and west.

Q Can you tell us the name of that citizen that met you at 329? A I never saw him before, and haven't seen him since.

Q Never saw him before, and haven't seen him since?

A No, sir.

Q you don't know his name? A No, sir.

Q He did not accompany you down there; he did not go with you down there? A No, sir.

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Q You didn't think it necessary? A No, sir.

Q Although a felony had been committed on your post?

A I knew nothing of the felony being committed; only information secured.

Q Although a felony had been committed on your post, two men being cut, and your informant told you the house into which these people went, you didn't think it sufficient to have him go along with you?

MR. MANLEY: I object to that.

THE COURT: A man told him there had been some cutting down the street. He may ask the question.

MR. MANLEY: He hasn't said that anybody told him the circumstances of the cutting.

MR. BROWN: Question withdrawn.

BY MR. BROWN:

Q When you got there in, there were three men?

A Yes, sir.

Q In the hallway? A Yes, sir.

Q There were three men? A Yes, sir.

Q You recognize the defendant as one? A Yes, sir.

Q And Roberts as one? A Yes, sir.

Q And another man? A yes, sir; there was another man.

Q With him? A yes, sir.

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Q Did you see all of their faces? A I certainly did; yes, sir.

Q Did you talk with them on the street? A I asked them what was the trouble.

Q You asked them what was the trouble? A Yes, sir.

Q Where the light was -- did you talk with them in the hallway? A No, sir; standing at the stoop.

Q Was it light there? A Pretty well lighted.

Q So that you could see their faces? A Yes, sir.

Q What did you first say to them now? A Asked them what was the trouble.

Q Asked all of them what was the trouble?

A yes, sir; said to him, "What was the trouble".

Q They hadn't said anything about any trouble, had they? A No, sir.

Q Not at that time? A No, sir.

Q Did they appear like any trouble had occurred?
A No, sir.

Q Why did you ask them ~~was~~ what the trouble was?
A Upon information secured.

Q Upon information secured? A Yes, sir.

Q Did you see this third man? A Yes, sir.

Q Did you see his face? A Yes, sir.

Q Did you see his mouth? A I saw his face.

Q Did you see his mouth? A I must have seen his mouth

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if I saw his face.

Q I am talking about his mouth? A Yes, sir; I saw his mouth.

Q Did you see where his teeth had been knocked out?

A No, sir; I didn't see any teeth knocked out.

Q You did not see that? A No, sir.

Q Did you see any blood on his face or clothing?

A No, sir.

Q Did he make a complaint to you? A No, sir; he did not.

Q That he had been set upon by a crowd of men in the street? A No, sir.

Q He did not? A No, sir.

Q Did he tell you that these men were in 304, down in the restaurant? A No, sir.

Q Went into the restaurant, 304? A No, sir; he did not.

Q Why did you go to the restaurant? A I took them up there.

Q Why did you go there? A They told me they had a fuss with some boys.

Q Who told you that? A Brown.

Q This man? (No answer).

BY THE COURT:

Q Was it this Brown told you that? A Yes, sir.

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Q He asked you to go to the restaurant, 304?

A I took them up to the restaurant.

BY MR. BROWN:

Q Why did you go to that restaurant? A Brown, this defendant here, told me that he had a fuss with some boys and they were up there in the restaurant and I took him up there.

Q How many of these men did you arrest at that time?

A I didn't arrest none of them.

Q You did not? A No, sir.

Q Did you take them along with you to the station house? A No, sir.

Q These defendants? A No, sir; I did not take them in at all.

Q You let them go? A Yes, sir; I accompanied them down to the house; I told them the best place for them was in the house.

Q You went to the house with them? A Yes, sir.

Q 329? A Yes, sir; I couldn't find the people that was cut, only what I heard, I didn't know anybody was cut in fact.

Q Well, Officer, isn't it a fact that these men --- that you did not meet these men first in the hallway of that house, that these men walked up the street to you and

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told you that the man that was injured -- that he had been injured by these men and that he wanted you to go to that restaurant and arrest these men in there? A I first saw the men at 329 West 69th street.

Q Isn't it a fact you saw them on the street and not in 329? A It is not.

Q And that you said to them when they wanted you to go down and arrest these men, you said that that was private property, you could not go down there to make an arrest?

A No, sir.

Q Didn't they so testify in the Magistrate's Court?

MR. MANLEY: I object to that.

THE COURT: The question was did the officer so testify? You may ask him if any particular witness who has testified here has testified to the contrary before the City Magistrate.

MR. BROWN: I withdraw the question.

Q Now, you say that you did not go down in the restaurant, that they didn't ask you to arrest these men that assaulted them? A I don't quite get you.

Q Did you go in the restaurant? (No answer).

BY THE COURT:

Q They didn't ask you to go in the restaurant and arrest these men that had assaulted them? A No, sir.

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BY MR. BROWN:

Q You didn't tell them that you couldn't go down there to arrest these men because it was private property?

A No, sir; a public place ain't private property.

Q Isn't it a fact that after you refused to go down in that restaurant and arrest these men that you then walked with them to their home? A I took them down to the restaurant, the three men.

Q After you left the restaurant? A You asked me about what occurred in the restaurant.

Q You denied everything about the restaurant -- now, I am asking you --

THE COURT: No, he does not. He says he went to the restaurant with the three men.

MR. BROWN: I know, but he denies it.

THE COURT: He told you they didn't identify anybody in there nor did they request him to arrest anybody in there, so he walked them back to their homes, is that what you say?

A Yes, exactly, your Honor.

BY MR. BROWN:

Q One more question. Now, that night you remember there was about fifteen or twenty people arrested in 329, was there not? A I don't know anything about that.

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the
Q Wasn't you in court next morning? A No, sir.

Q You were not in court? A No, sir.

Q The next morning in the Magistrate's Court?

A That was Sunday morning.

Q Ain't you in the 68th street station? A Yes,
sir.

Q Don't you know that there were fifteen or twenty people
prisoners there that night?

MR. MANLEY: I object to that. This is not
the arresting officer.

THE COURT: He can tell whether there were
fifteen or sixteen prisoners there.

THE WITNESS: I did not see them, your Honor.
I went home at two o'clock that day till two o'clock
the following day, and what occurred between that time,
I don't know.

BY THE COURT:

Q Did you see any prisoners in the station house,
colored men? A In the station house? No, sir.

Q If so, how many? A No, sir.

BY MR. BROWN:

Q What time did you come on duty the next morning?
A Two o'clock in the afternoon.

Q When did you first go to the Magistrate's Court
in this case? A I may have got there Sunday morning, I

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can't exactly recall.

Q Did you come down on the block on your way from the station house? A No, sir.

Q Walked down? A When I came home from the station or to the court?

Q What I want to get at before you get away -- the man that you saw with Brown and Roberts, did you meet him at 329?

A Yes, sir.

Q With Roberts? A Yes, sir.

Q Where did Roberts go and Brown go, where did he go?

A They went into the house.

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

Q Have you seen him in court since? A No, sir.

Q Have you seen him anywhere since? A No, sir;

I have not.

Q Would you recognize him if you did see him?

A I don't think I would.

Q You don't think so? A No, sir.

Q Isn't he the man now -- not Brown -- isn't he the man that made a complaint to you that he had been assaulted and not Brown? A No, sir; nobody made a complaint of being assaulted to me.

Q Isn't he the man that said to you, "Go down in there and arrest those men", this man that you haven't seen since?

A No, sir.

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BY THE COURT:

Q Are you sure that this defendant, Brown, is one of the men that you saw in that hallway and that went with you to 304, the restaurant? A Yes, sir, positive.

Q Positive that this is the man? A Yes, sir.

Q Positive it is not his brother? A I don't know his brother; I am positive that is the man there.

Q This man there? A Yes, sir.

BY MR. BROWN.

Q What kind of a looking man was the third man, was he the same size? A He was about the size of Roberts.

Q Just about the size of him? A Of Roberts.

Q The same color? A I can't exactly describe the color of colored people.

Q Have you been to the premises where these people were taht night? A No, sir.

Q Have not been in the room? A No, sir.

(The Court then admonished the jury calling their attention to Section 415 of the Code of Criminal procedure, and adjourned the further trial of the case until to morrow, April 26, 1911, at two p. m.

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New York, April 26, 1911, 2 p. m.

TRIAL RESUMED.

OFFICER KILGALLEN, a witness for the People,
resumes the stand.

CROSS EXAMINATION CONTINUED BY MR. BROWN.

Q Now, Mr. Kilgallen, how long did you say you had been
in that precinct? A Three years in July.

Q Had you any acquaintance with Florence McCarthy
while you were in that precinct? A Any waht?

Q Had you any acquaintance with McCarthy, the injured
man? A No, sir; never saw him until the time of
stabbing.

Q Had you any acquaintance with Peter Gentile?
A Never saw him before that.

Q Now, which man was it that told you that there had
been trouble there that night? A I don:t know.

Q Tell us about what point were you when they told
you? A 69th street, southwest corner, of West End avenue.

Q What did they tell you the trouble was? A Told me
there had been a cutting around there.

Q Been a cutting? A Yes, sir.

Q Did they identify or tell you the identity of any

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person? A Told me three negroes down in 329 West 69th street, ran in that hallway.

Q When they told you that all of this trouble was over?

A Well.--

Q All of it was over? A Yes, sir.

Q Now, when you went down to 329, was it? A Yes, sir

Q West 69th street-- you say you saw three negroes in the hallway? A Yes, sir.

Q Peeping out? A Standing on the stoop, in the hallway.

Q You are sure there were three men? A Yes, sir.

Q Did you get the names of those three men? A I did not

Q How long did you talk with them on the stoop before you started away? A Well, just asked them what was the trouble and started up the block with them as far as the restaurant.

Q What, if anything, did they have in their hands?

A Well, at that time I did not notice anything in their hands.

Q At that time? A Yes, sir.

Q You did not notice anything at all? A Yes, sir.

MR. MANLEY: What time?

MR. BROWN: At the time he first spoke to them.

BY MR. BROWN:

Q Did the person that said that these negroes was

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down there in that place say how long they had been there?

A No, sir; he couldn't talk very good English; I couldn't get very much out of him.

Q Well that impressed you enough to go down there?

A Yes, sir.

Q Did he say it was the day before or the night before?

A He said --

Q An hour before? A He said there were some cutting just been done.

Q You got that much out of him? A Yes, sir.

Q You went down there? A Yes, sir.

Q He did not go with you? A No, sir.

Q That is the first time you saw those men? A Saw which men?

Q The men that you went down to see? A Do you mean the defendant?

Q In the hallway? A Yes, sir.

Q That is the first time you saw them? A Yes, sir.

Q They didn't meet you in the street? A No, sir.

Q Did not make a complaint to you? A They did not.

Q Did you say to them to point out the man that had cut them, had injured them? A Do what?

Q Did you say to them, one of them, to point out the man that they had the trouble with? A Point out the men they had the fuss with, as he explained to me.

Q What is your answer? A I told him to point out the

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men that had the fuss with them, and if they wished to make a complaint against them I would make an arrest upon their complaint.

Q Where were they then? A In front of 304 West 69th street.

Q Did you see any men? A I did.

Q Where were they? A In the restaurant.

Q Did they make reference to any men in the restaurant?

A They could not point out anybody in there that had bothered them; said they could not.

Q Said they could not? A Yes, sir.

Q You testified in the Magistrate's Court, didn't you?

A I believe I did, yes, sir.

Q Don't you know you did? A Well, I did a couple of days after; I did not testify that morning.

Q You testified in the Magistrate's Court in this case?

A Yes, sir.

Q How many men told you about these men? A One man.

Q One man? A Yes, sir.

Q Did you testify to this in the Magistrate's Court, "I was making my rounds and a couple of fellows came and told me there was a stabbing". A One man done the talking; there may have been a couple around.

Q Did you testify what I read in the minutes.

A I may have testified to that.

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Q "QSo I starts and makes an investigation and all I could see was three negroes on the corner."

A No, sir; I did not testify to that.

Q Did you testify to that? A No, sir.

Q Do you deny this language? A I deny absolutely testifying to that.

Q "I go down and saw this man and two others" meaning the defendant?

A Yes, sir.

Q Did you testify to that? A Yes, sir.

Q "Q. I saw an Italian who was stabbed, and I asked him who stabbed him and he said everybody, everybody".

I saw an Italian that was stabbed? I believe you got the wrong testimony there counsellor; that is not my testimony at all.

Q Just answer the question.

A I know nothing at all about that testimony.

Q You don't know anything at all about that?

A No, sir.

Q So you deny testifying to that.

A I deny it.

Q "I said, show me which one", did you testify to that?

THE COURT: That is not intelligible, or that part of it is not.

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Q "Q I said show me which one". That is the fact--

THE COURT: That is not a question. That is an answer.

MR. BROWN: This is all in one question what I have asked him.

THE COURT: You had better say to him was the following question put to you, and did you make the following answer before the City Magistrate in this case.

MR. BROWN: That is what I am doing.

THE COURT: Read the question.

BY MR. BROWN:

Q Was this question asked, "I said show me which one".

THE COURT: That is not a question, is it?

MR. BROWN: That is all one question.

THE COURT: That does not sound like a question. That sounds like an answer. Read the question.

MR. BROWN: Your Honor he was asked one question, -- what did you see him do on this occasion-- were you asked that question-- I am picking out parts to read, questions and answers.

MR. MANLEY: I object to counsel characterizing something as evidence.

THE COURT: You may ask him "Was the following

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question put to you and did you make the following answer to the question before the City Magistrate."

MR. BROWN: Well, I will ask him that.

BY MR. BROWN:

Q Now, Mr. Kilgallen was this question put to you and did you make the following answer:

Q "Q Show me the one".

THE COURT: You had better read it all.

Q "Q I said show me which one".

THE COURT: That is not a question; that is an answer.

MR. BROWN: All of the rest of that --

I am reading his answer.

Q Was the following question put to you, and did you make the following answer. "What did you see him do on that occasion"? Now all that I am going to read now is his answer.

MR. MANLEY: I object to the characterization and ask that it be stricken out.

THE COURT: Yes. Strike it out. The witness has not said that he answered it in that way. Read him what you have there.

BY MR. BROWN:

"Q I was making my rounds and a couple offellows came to me and told me there was a stabbing. So I started to make

an investigation and all I could see was three negroes on the corner. I go down and see this man and two others. I saw an Italian who was stabbed and I asked him who stabbed him, and he said, "Everybody, everybody." I said, show me which one; he could not agree on who it was. So I started to talk with him and we started to walk down the block. I said 'I will leave you at the door' and this man here had what looked to me like three-quarters of the night stock, that was the other defendant, in his hand. So I started down the door and my relief appeared on the corner, and I turned the case over to him. After that it was found that he was cut" Now, did you so testify in the Magistrate's Court? A I did not. I would like to have your Honor allow me to explain that.

THE COURT: No, the District Attorney will ask you about that when his time comes.

BY MR. BROWN:

Q Now, did you testify to this, was this question asked you in the Magistrate's Court, "Did you hear Gentile's statement that he made in the hospital", and your answer was, "Yes", did you so testify? A Yes, sir.

"Q What did he say -- Q. What did he say and did you give this answer in the Police Court "I haven't got it down but I heard what he said" was that your statement in the

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Police Court to that question ? A I don,t remember that statement.

Q The question again "What did he say?" And was this your answer? "He said, this man hit me with a stick and made me jump off the roof" is that your answer?

A Gentile told me that?

Q Gentile told you that? A Yes, sir.

Q In the hospital? A Meaning Roberts when he said this man.

Q Now the next question, "Q Did he say long after he was cut thst this fellow hit him on the roof", and did you answer, "No, sir," was your answer to that question, no, sir? A Did he stay long after he was hit?

Q Did he say how long after he was cut that this fellow hit him on the roof", and was your answer to that question, "no, sir."

A He did not tell me how long after he was hit, no, sir.

Q "Q. When these men met you, the three men, one of them did tell you that he had some trouble and had been attacked by a couple of Italians", was that question put to you? A Yes, sir; I have testified to that.

Q And was this your answer, "Oh, yes, one of them had a bruised lip", did you so testify? A Yes, sir, I believe I did.

Q You believe you did? A Yes, sir, I believe I did.

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Q You believe you did? A Yes, sir, I believe I did.

Q What did you testify to yesterday when these men were talking to you that you did not discover one of the men said he had a bruised lip? A The lips were naturally large, I could not tell whether it was swollen or not.

Q That is your answer? A Yes, sir; that is my answer.

Q And that is your answer now? A Yes, sir.

Q Is your memory better now than it was a year ago last May? A I don't say it is.

Q I don't say it is.

Q "Oh, yes, one of them had a bruised lip, one of them had a bruised lip" was that your answer to that question?

A It may have been.

Q Was this question asked you "At the time, did you notice any bruise on this man? A. No", was that your answer?

A What man are you talking about, I don't know.

Q What man are you talking about, I don't know.

Q I am talking about this man, about the bruised lip?

A Which man is that; there were three of them there.

Q You saw them? A Yes, sir.

Q You said one man was talking to you, the man that you claimed said he was assaulted, the man that was talking to you? A I told you no man was assaulted; no man told me he was assaulted; one man told me he had a fuss with some boys in the neighborhood and that is the man, the defendant

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there.

Q Now, Mr. Officer, I want to ask you again when you first met these men wasn't it away from 329? A No, sir; it was at 329 West 69th street.

Q Did you walk from 329 up to this restaurant, down to this restaurant with him? A Yes, sir; I did.

Q You walked back with them? A Yes, sir, I did.

Q What was your purpose in going to 304 with them? A I have answered that question before; they told me that --

Q Never mind what you have answered, I want it again. A They told me they had a fuss with some boys in the neighborhood, and they were in that restaurant.

Q Three men? A Three negroes.

Q These three negroes? A Yes, sir.

Q Whib one of those three negroes, I ask you again, did the talking to you? A The defendant there.

Q Can you be mistaken on that point? A The defendant and Roberts done all the talking; the third man did not do any talking .

Q The third man did not do any talking? A No, sir, not to my knowledge.

Q Which one was it that had the bruised lip?

A I don't remember seeing any man with a bruised lip.

Q You don't remember seeing that? A No, sir.

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Q Did either of these men have a musical instrument with them? A No, sir.

Q Did either of these men have any other instrument?

A No, sir.

Q When you saw them? A No, sir.

Q When they came up to you? A When I came up to them?

Q When you came up to them? A No, sir.

Q You did not have weapon? A No, sir; that is not an instrument, a weapon.

Q Well any weapon, I am asking you now? A Not at that time.

Q Not at that time? A No, sir.

Q Everything was all over? A Yes, sir; everything was all over.

Q Everything was all -- all of this assault business was over? A Well, I believe it was.

Q Isn't it a fact that because you did not make an arrest according to what was said to you, isn't it a fact that you did not make an arrest because you were going off, you were about to be relieved? A There was no--

Q From post? A There was no cause there to demand police action off me; if there was I said to the defendants I would make an arrest upon their complaint if they could point out the men whom they claimed had done them any harm or injury; I told them I would make an arrest

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upon their complaint; they could not do so. 195

Q They did not do so? A They could not do so.

Q Did you hear the testimony of Mr. McCarthy?

A Where?

Q In the Magistrate's Court? A No, sir.

Q You did not hear that? A No, sir; you ordered all the men away from the bench up there; you asked the Magistrate to have all the witnesses step back if you remember correctly.

Q What is the officer's name who relieved you? A Officer Longet and O'Toole; Longet took the 69th street post, I think it was, O'Toole took the West End avenue post; I am sure it was Longet took the 69th street post.

Q Did you know whether or not McCarthy had been sent away?

A I know nothing concerning McCarthy.

Q You knew nothing about him? A No, sir.

Q Didn't have any record in the station house?

MR. MANLEY: I object to that as being incompetent, immaterial and hearsay.

THE COURT: McCarthy was not under arrest.

Objection sustained.

Q Now, have you told us all that you remember that occurred in this case? A I certainly have, yes, sir.

Q Did you go to the hospital? A I did on the following Monday,

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Q On the following Monday? A Yes, sir.

Q With whom did you go? A Detective Callahan, the keeper of the prison, Roberts and Brown.

Q Did any citizen go with you? A No, sir.

Q Any of the witnesses in this case? A No, sir.

Q Did you see in the hospital Gentile and McCarthy behave this Roberts and Brown were brought in? A Five of us walked in at the one time; brought him right to the first bed, Gentile's bed, and then from Gentile's bed to McCarthy's bed.

Q Didn't you go in before Brown, in the room where these sick men were or injured men were, before Brown and Roberts were brought in? A No, sir.

Q What occurred when you got in there? A We took Brown and Roberts to Gentile's bed first and we asked him if any of these men were the men that had cut or injured them; Gentile said that Brown was the man that had cut him and Roberts was the man that had struck him on the head with a stick or club. We went from that bed to McCarthy's bed, which was across the ward, and we asked the same question, and he said that Brown was the man that cut him; asked him if the other man bothered him, and he said, no.

Q You did not have them lined up on the wall, against the wall to have them pointed out? A No, sir; we took the two men from one bed to another.

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Q You didn't have any other men besides these men there to be identified, this Brown and Roberts? A I believe that was all.

Q And Brown and Roberts did not have anything to say? A I did not hear them make any -- I did not hear them say anything over there at all.

Q Just one other question about this third man. The third man that was with Brown and Roberts that night about what size was that man in connection with or in relation to Brown? A Well he was smaller than he was.

Q Taller? A No, sir, smaller.

Q Smaller than Brown? A Yes, sir; about the size of the other defendant Roberts.

Q So you think Brown here is smaller than Roberts? A Brown is taller.

Q The third man was the size of Roberts or Brown? A I said smaller than Brown, and about Roberts size; not as stout.

Q About Roberts size? A Yes, sir; not as stout.

Q Roberts height? A I said about his size; height I meant.

Q But not so stout? A Yes, sir.

Q Have you seen that man since? A I have not.

Q Did you learn his name that night? A I did not.

Q Did you hear that night where he lived?

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A No, sir.

Q Didn't you hear that he -- wasn't it stated that the other man was Brown's brother, and that they lived together at 329 West 69th street? A No, sir.

Q You didn't hear that fact? A No, sir.

Q Have you heard anything at all about it since?

MR. MANLEY: I object to that as being incompetent, what the officer heard. Let us have direct testimony.

THE COURT: That is true. Objection sustained.

RE DIRECT EXAMINATION BY MR. MANLEY:

Q Now, did you say that Roberts had something in his hand that you saw when you were walking up the street to 304 that night? A When walking him back?

Q What was it he had in his hand? A He had what appeared to be three quarters of a night stock; he took it from up his sleeve.

Q Did you see him take it from up his sleeve?

A Yes, sir; and walked down with it.

Q That was after you left 304? A Yes, sir; walking down the block.

Q What do you mean when you say three quarters of a night stick, about the size round of an officer's night stock? A Yes, sir; three quarters in length.

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Q About the length indicated there? (Illustrated)

A Yes, sir.

MR. MANLEY: I should say that was one
and three-quarters feet.

A JUROR: Is a night stick longer than that?

THE OFFICER: yes, sir, a night stick is
26 or 28 inches.

BY MR. MANLEY:

Q Did you talk with men on the street that night,
prior to talking with the three colored men, with a man
who claimed he had been cut? A No, sir.

Q Now you wanted to make some explanation when counsel
read you what purported to be a question and answer, what
is it? A The counsel states in there that I walked down
with an Italian who claimed he had been cut and I said to
point out any man that cut you and the three could not point
out. Now that shows that I was with the three colored
men at this time; that is the explanation of what was
supposed to have occurred; it states there in that evidence
that an Italian claimed he had been cut.

Q The three men could not point out anybody?

A Well, that is the way that reads.

Q You wanted to call attention to that apparent
contradiction in what purported to be the answer that

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counsel read to you? A Yes, sir.

BY A JUROR:

Q You wouldn't know that colored man if you saw him, the third man, would you know him again? A No, sir.

Q If you saw him? A No, sir.

BY MR. MANLEY:

Q How far is 329 from the corner? A It is about 80 yards or 90.

Q From West End avenue? A Yes, sir; only one corner to that street that is West End avenue goes up against the railroad wall.

Q Goes right up against the railroad wall? A Yes, sir,; goes right up against the railroad wall.

Q When you took them down to the basement they could not identify anybody? A No, sir, they could not identify anybody.

Q Did you see Gentile or anybody else connected with it? A No, sir.

BY MR. BROWN:

Q Did you go down to that basement? A I did as far as the restaurant door.

Q As far as the restaurant door? A Yes, sir.

Q Did these colored men go down after? A Yes, sir.

Q Say they could not identify anybody there? A Yes, sir.

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Q You took them down there? A Yes, sir; I took them to the restaurant door.

Q How many men were in there? A Four or five.

Q Did you tell these men at that restaurant door that that was private property, and you could not go in there?

A No, sir.

OFFICER THOMAS J. CALLANAN, a witness for the people, being duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. MANLEY:

Q Officer Callanan, upon the 15th day of May last year you were attached to what precinct? A The 28th.

Q A police officer of the City of New York? A Yes, sir.

Q Were you on duty on the morning of the 15th of May, Sunday morning? A I was.

Q At what time did you go on duty? A I was on duty all night.

Q In plain clothes or uniform? A Plain clothes.

Q You were then what at that time was called a plain clothes man in the precinct? A Yes, sir.

Q Did you have a partner or somebody associated with you who worked with you? A Yes, sir, Officer Leonard.

Q Now, was your attention drawn to some trouble which happened upon that morning, the 15th? A Yes, sir.

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Q About what time was it when your attention²⁰² was drawn to it? A As nearas I can redollect it was a little after two in the morning; I think about a quarter past two.

Q Who was it that called your attention to it?

A The lieutenant at the desk.

Q You were inthe station house at the time? A Yes, sir.

Q Can you tell me whether or not the men wenton duty the uniformed men had gone out at two o'clock, at the time that you got the information? A Yes, sir; they had gone out.

Q Do you know how it was that the lieutenant got the information; you can't tell what he said to you? A I know how he got the information.

Q That he conveyed to you? A Well, through an officer there, brought it to him.

Q An officer over the telephone? A Well, that I don't know, whether it was over the telephone or whether the officer had brought it in; I cannot say.

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Q Was that officer -- do you know, who had gone out at two o'clock? A That I could not tell, no, sir.

Q After you gotthe informationwhat did you do?
A Well, I went down to 69th street where the trouble had occurred, West 69th street.

Q Did anybody go with you? A Officer Leonardwent with me, to West 69th street where the trouble was.

Q Tell what you did when you got to West 69th street?

A When we got to West 69th street we found a little Italian fellow.

Q What was his name? A I don't just recollect his name now.

Q Was it Citrone? A Citrone is here now; it is one of the people that is here at the present time -- Citrone is out in the hall.

Q Was it a man named Tucci? A Yes, sir.

Q You say Citrone is here? A Isn't Citrone here? Citrone is the one, that is the man's name, yes, sir.

Q Had you ever seen that man that you saw on that block before that night? A No, sir; never saw him before in my life.

Q When you got into that block west of West End avenue you saw Citrone -- where was it? A Around the restaurant.

Q What restaurant, what number? A About 206 or 205 I believe.

Q 200 or 300? A 308, about 306 or 308.

Q Did you have any occasion to pass through there
or
so that you are familiar with the neighborhood, were you
just a plain clothes man who is sent out throughout the
precinct to investigate complaints? A Yes, sir; I was
never on post in the precinct; to the best of my

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recollection the number was 306.

Q How did you happen to get hold of Citrone? A There was a few fellows in front of the -- around this restaurant.

Q You said something to them? A Yes, sir; we asked them if they had seen anything of the trouble.

Q Answer yes or no. Did you receive any information from this man whom you think to be Citrone? A Yes, sir, I did.

Q Did you go anywhere with him? A Yes, sir.

Q Where did you go with him? A Well, I went to a house in the same block, further west.

Q What is the number? A I think the number is 329.

Q Now did you go directly to that house immediately after talking with Citrone? A About five minutes afterwards.

Q What did you do during those five minutes?

(No answer.)

BY THE COURT:

Q Do you mean did he go anywhere else between the time that you saw Citrone and the time you went to 329?

THE WITNESS: No, sir, I stayed in the block.

BY MR. MANLEY:

Q Where were you during the time, from the time you first saw Citrone before you went to the house 329? A Then I

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got McCarthy's brother.

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

Q He is the man called Gurly McCarthy? A Yes, sir,
the bartender.

THE COURT: Curly is the complaining witness.

THE WITNESS: He is a bartender in a place right
opposite this restaurant.

THE COURT: Which is Curly?

THE WITNESS: I think it is the boy who is the
bartender.

THE COURT: The other fellow is Curly too.

BY MR. MANLEY:

Q Now, did you have talk with him? A I did.

Q Well, by that time, I suppose when you got around
there the two injured men had been sent to the Flower Hospital
is that right? A Yes, sir.

Objected to as leading; objection sustained.

THE COURT: Don't put leading questions.

Q You went to 329, is that correct? A I believe that
is the number.

Q Did anybody go with you? A Officer Leonard.

Q Anybody else? A This Citrone.

Q Anybody else? A To this best of my recollection
I -- I don't think McCarthy's brother went up into the house

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with me.

Q Now where was it that you went into 329, what part of the house? A Well, I went up, two flights up in the front, and on the east side of the building.

Q Now, did you go up there, to that particular apartment as the result of what anybody had told you? A Yes, sir; they told us --

Q Who was that somebody? A This Citrone; he said that the men went down.

Q I didn't ask you for that because he will object and he has a right to. If he does not object I would like to ask it. Now, when you got to that door did you know, or what did you do? A Knocked on the door.

Q Who knocked on the door? A I did, I believe.

Q What happened? A Several colored people came to the door.

Q Did you see this defendant at that time when the several colored people came to the door? A No, sir, there was quite a confusion, I could not see them; I seen the defendants at that time.

Q Can you tell us how many colored people you saw as you stood at the threshold of the door? A I should say ten or twelve.

Q Did you go inside? A Yes, sir.

THE COURT: Why not let him tell us what occurred

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when he opened the door in his own way.

MR. MANLEY: What occurred.

A Officer Leonard was with me, we knocked on the door, and I asked them who lived there; several of them spoke together; they went to close the door; I got my foot in the door; we got inside the door; I said, "There has been some trouble on the block," and a witness who is now out in the hall way said, "Well, what has that got to do with anything going on here."

Q Who is that? A I don't know his name; he was arrested at the time.

Q Well do you know his name now? A No, sir, I forget his name.

Q Roberts? A No, sir; it is not Roberts or Brown.

Q It is another colored man? A Yes, sir; he had been out in the hallway. And he says, "That ain't got anything to do with this here; you got no business in here; get out of here."

Q Were you in uniform? A No, sir, plain clothes, civilian dress.

Q Did you make known who you were? A We told them at the door we were police officers before we entered the flat at all; they insisted then, also -- sort of trying to put us out of the flat; and with all this confusion

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there, a sort of fight followed, and meantime a couple of uniformed policemen had come up, there wasn't enough for to handle it, it had got pretty rough meantime before we could reason with them or do anything at all. The whole party were very drunk, and we had to send for the reserves. The two men got there, the two uniformed men got to the one door, and another uniformed man and myself got to another door and I believe Officer Leonard went for the reserves, and we got the patrol wagon then and took them all around.

Q Before the reserves got there, did you have to do anything when you say you held them off? A Yes, sir; I had to pull my revolver on them; they got bad there before the two men in uniform got there.

Q Before the reserves came did you see the defendant Brown there? A Before the reserves came there or before the two men came up the stairs, Brown told me he would knock my God damned head off.

Q Had you seen Brown? A Yes, sir, I did.

Q Had you talked to Brown or said anything to him?

A I told him to keep quiet, the rest of them were all coming on me at one time, ~~after~~ both Leonard and I meantime two men in uniform had come upstairs.

Q What was it Brown said to you? A I asked him who was it was downstairs on the street, if any of them

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was down on the street, of course, several of them answered the question at the same time; asked me what was it my business, what did I want to know that for, it was none of my business, a private party there, I had nothing to do with it.

Q Did you say anything to Brown? A I believed that is all the conversation I had with him.

Q Did you ask him where he had been that night, or anything of that sort? A No, sir; not at that time; I didn't get any chance to until I got him to the station house.

Q Was there anybody identified by Citrone before the reserves came there? A Yes, sir; after the reserves came there they were all quieted down.

Q Was anybody identified by Citrone after the reserves came? A After the reserves came there Citrone identified Brown as the man that had the razor and the instrument, either a banjo or a guitar, I believe he said a banjo or a guitar he had in his hand, and the razor.

Q Did he say that in the presence of Brown? A He did.

Q Citrone said that in the presence of Brown?
A He said, "There is the man that cut McCarthy and Gentile.

Q Did Brown say anything? A Brown called him a God

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damned liar, I believe.

Q Did he say anything else? A No, sir; I tried to pacify them; I took them over to the station house then; I think that is all was said.

Q How many were taken to the station house? A I think about 16.

Q Now, why were the 16 taken to the station house? A Well they all insisted upon fighting, we could not make head or tail, or get head or tail to anything that was there and they were all drunk.

Q Including the defendant Brown? A Yes, sir including the defendant.

Q How much was Brown intoxicated? A He was very much intoxicated.

Q Now when you got the various people all of these that you took to the station house, did you or anybody in your presence have any talk with Brown? A In the flat I asked Brown -- he couldn't get no hat; he had no hat and after searching the flat I still held on to Brown, and we got some old hat that didn't fit him, it went over his head, several sizes too big for him, and he said he lost his hat on the street, he said to me then -- and I said, "Well what is the difference, if you haven't done anything, none of these fellows can identify you, we can't get a witness to identify you, you will be sent home. It don't make any

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difference whether you got a hat or not.

Q Did he say when it was he lost the hat?

MR. BROWN: I object to that as leading.

Q Did he say when he had lost the hat on the street?

A No, sir, he said he had been out and lost^d the hat on the street.

Q He didn't say what time or anything? A He said he had been out and lost that hat on the street.

Q Did he say anything else? A No, sir; that is all he said at that time.

Q Was Roberts one of the men taken out of the house to the station house? A Yes, sir.

Q Did you have any talk with him in the presence of Brown or anybody else have any talk with him in the presence of Brown? A Yes, sir; I spoke^d to both together, after Brown was identified in the station house I said to Roberts "What do you know about this," and he said, "There was a little fuss on the street and some boys went to take a can of beer out of our hand."

Q Did he say anything else? A Well, I said, what about the man that was out with the razor, and he said, "There was nobody out with any razor at all, there was no razor around, I don't know anything about anybody being out with a razor." We went out to get some beer, we had a can of beer the boys

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went to take it from us". I asked Brown what he knew about it? I understood Brown to say then-- of course he was very much intoxicated -- he said the boys held him up wanting the price of a can of beer; that is all I understood him to say.

Q Tell us everything you can remember Brown said.

A Brown told me that the boys held him up on the street for the price of a can of beer, and that when they refused to give it to them that they beat them, and there was nobody had any razor. He also added that they had gone out to get some music for the party, and when they were coming down the street that they were held up by this crowd of boys.

Q Did he say who the boys were that held him up?

A He said he didn't know any of them; that is what he told me.

Q Did he tell you at any time who they were?

A No, sir, he said-- he never said any time that he knew them; he said there were some white boys on the street.

Q Did he say what hour it was he was on the street?

A Yes, sir, he said it was about 12 o'clock, between 12 and one.

Q Did he say how many left the party to go out for music, and to get some beer? A Yes, sir, he said there were three of them together.

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Q Did he say who they were? A He said himself and Brown and another fellow; I don't remember.

MR. BROWN: I object to that as suggestive.

THE COURT: I don't see any objection to his asking that. This is an officer.

MR. MANLEY: I don't try a case without seeing my witnesses in advance.

THE COURT: Objection overruled.

Q I think the question I asked was, did he tell you who went out with him to get the beer and the music, did he say who it was? A Himself and Roberts and another man, another colored man whose name I don't recall at this time.

Q Now did he tell you the name of that other?

A He did at that time, yes, sir, he said that a man I met before we came into the flat--

Q Do you remember the name he told you? A No, sir, I do not.

Q Do you remember whether it was Brown? A It was not Brown, no, sir.

BY THE COURT:

Q He did tell you that this Brown was one of them?

A It was himself and Roberts and another man.

Q Now did Brown at any other time tell you anything else about what he claimed were the circumstances of what

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took place on the street? A No, sir, that was all he said, they went out to get some music. At one time he said --

Q Now all I want to know is there anything else?

A No, sir; that was all; that about covers it all.

Q Now, did you get any other witness that night besides the man whom you think to be Citrone, the man who is not here? A After they were all arrested-- between that time and the time they were arraigned in court in the morning we got Tocci and Ruffo and two other witnesses that are out in the hall.

Q By the way. After you got this Brown and Roberts to the station house did anything take place there by way of identification? A Yes, sir.

Q Now what was it? A Brown was identified.

Q Tell us what happened, how it was done? A We lined all the colored men who had been arrested in the flat up.

Q There on the line how many men? A As near as I can recollect it was about twelve men.

Q Now who was present, what witness was present at the station house at that time? A Well the lieutenant was there.

Q The lieutenant is not a witness -- what witness who had been on the street? A McCarthy's brother and this first Italian fellow I had got.

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Q That is the same Italian man who went to 329 with you? A Yes, sir, Citrone and McCarthy's brother.

Q What Citrone do when he lined them up? A I put Citrone behind the desk, behind the lieutenant's desk, when I brought them out after taking their pedigree, they were lined up; he went into the line; I told him to go over and pick the fellow out he seen with the razor, the one he seen in the trouble on the street; he walked over and picked out Brown; he did not identify Roberts at all nor anybody else that was in the line; he didn't identify nobody else only Brown.

Q Now just answer this yes or no because counsel has a right to object to it. Did Citrone claim he had seen him that night? A Yes, sir.

Q Do you happen to know where Citrone is now? A No, sir I do not.

Q Now did you some days later go to ^{the} a hospital?
A Yes, sir.

Q What day was it? A On Monday afternoon.

Q Tell us who went with you to the hospital? A Officer Kilgallen went with me and the keeper of the 54th Street prison.

Q Tell us what took place when you got there?
A I brought the defendant Brown and Roberts to the Flower Hospital; I went up and asked the doctor if we

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could bring the two colored men up to the complainants to see if they could be identified; he said they were in pretty bad condition, but we will go up and see the nurse; we went up and saw the nurse; we went up with the house physician to the nurse on the second floor of Flower Hospital.

Q Now what happened up there? A I brought the defendant Brown to McCarthy's bed first; I asked him if he ever saw this man before, and he said, "Yes, that is the man that cut me", he said, "I will never forget him" so Brown went to say something, and I told him to keep quiet, that was no place for an argument.

Q Did he say anything at all before you cautioned him? A No, sir; he went to say something, and I cautioned him to keep quiet, he didn't say anything. He went to say, "Do you know me?" And I stopped him at that. He did say two or three words. I took him away. Officer Kilgallen held Brown and I brought Roberts in; he held Brown at the foot of the bed and I brought Roberts to the head of the bed and I asked him if he had ever seen this man before, that was Roberts, he said, "No", that he didn't know that he had ever seen Roberts before". "Are you sure now that you never seen this man before". A "This man wasn't there-- I never saw that man.

Q This is McCarthy? A Yes, sir; then I brought both

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of them over to Gentile's bed, which was in the same room.

I brought Brown up and asked Gentile if he knew this man or had ever seen him before, and he said, "Yes, that is the man that cut me with the razor." We took him away from the bed. Brown did not say anything. We brought Roberts in, and I said, "Do you know this man, "Have you ever seen him before," and he said, "Yes, that fellow hit me on the head with a club." I said, "Are you sure of that now?" And he said, "Yes, he hit me on the head with a club."

Q Now upon the night that you made the arrest, that is the morning of the 15th, did you find anything or did anybody call your attention to anything as you were passing up the stairway at 329, the place where you found these various colored people? A Yes, sir; when we got to the top of the first flight of stairs.

Objected to; objection overruled; exception.

THE WITNESS: (Continuing) When we got to the head of the first flight of stairs, up towards the doorway where we seen the light Reynolds hand was full of blood, over his left hand; and then afterwards we looked through the building for the blood. At the bottom of the first flight of stairs on the balustrade, why six feet probably -- about six inches along the balustrade there where somebody

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had run like a hand over it was full of blood there.

Q You had been right by there going up that stairs, going up? A Yes, sir.

Q Was that going from the ground floor to one flight up where you found that? A That was at the bottom of the first flight of stairs I believe.

Q Is that going from the ground floor, is that the stairway that goes from the ground floor to one flight up?

A Yes, sir.

Q That is the balustrade? A Yes, sir.

Q Was it a dark hall there? A Yes, sir; no light in it at all.

CROSS EXAMINATION BY MR BROWN.

Q Now this last question I will commence with first. What was that that some one called your attention to on the balustrade? A We found it ourselves when we went downstairs.

Q You found it yourselves? A Yes, sir.

Q You didn't see it when you went up? A No, sir; I couldn't see it, it was, the hallway was dark.

Q Somebody called your attention to it after you got upstairs? A When I got upstairs with Officer Leonard--

Q Just answer the question. A Yes, sir.

Q Somebody called your attention to it upstairs?

A yes, sir.

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Q You don't know whether it was put on there while you were there upstairs or not? A I tell you the hallway was dark, and I could not see it.

THE COURT: He does not know.

BY MR. BROWN:

Q You don't know whether it was put on there when you were upstairs? A No, sir.

Q There was a lot of these Italians who had followed you and this patrol wagon to this house, hadn't they?

A No, sir. There was not.

Q How many were there? A Well, I think McCarthy and the one Italian that came down the block to the house with me.

Q Is McCarthy an Italian? A McCarthy and one Italian I said.

Q Who was the Italian? A Citrone I believe is his name.

Q Citrone was the Italian that told you about this house? A He said they went up in this house.

Q Went to the house? A Yes, sir.

Now

Q ^did you have Citrone in the Magistrate's Court?

A Yes, sir.

Q Did he testify? A I believe he did; I won't say positively.

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Q Don't you know? A No, sir, I won't say positively; there was so many testified I don't know whether Citrone did or not.

Q He was the first man you knew that gave you any information about this case. Now don't you know whether or not you summoned him to the court, summoned him to the Magistrate's Court? A No, sir, I do not.

Q You don't know that? A No, sir, I would not be positive.

Q Did Citrone go to the hospital? A No, sir he did not.

Q Citrone went to the house? A To the station house.

Q He went to the house of these defendants? A Yes, sir, we brought him there.

Q You say Citrone identified Brown? A Yes, sir.

Q At that house? A Yes, sir.

Q Now are you able to tell this jury whether or not he was at the Magistrate's Court, he having been the first man to identify Brown? A I said he was there, yes, sir.

Q Giving his testimony? A I would not be positive that he testified; it was a day later when the hearing was held in the Magistrate's Court.

Q I will ask you another question. Were you down

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before the Grand Jury in this case? A I was.

Q Was Citrone summoned or subpoenaed as a witness there? A I believe he was, yes, sir.

Q Let me see the original papers in this case, if you please, Mr. Clerk?

THE COURT: There they are. Take them. What is the proposition?

MR. BROWN: I ask you if Mr. Citrone was a witness before the grand Jury in this case.

THE COURT: Well, what is the fact, was he or not?

THE WITNESS: I believe he was, your Honor.

THE COURT: I mean Mr. Brown, was he or was he not?

MR. BROWN: He was not. There isn't any record that he was a witness before the Grand Jury.

MR. MANLEY: Perhaps Mr. Brown does not know that it is not customary to produce all the witnesses before the Grand Jury.

MR. BROWN: I know about some things that are not customary.

THE COURT: It is only necessary to produce sufficient witnesses and no more than the Grand Jury is satisfied with.

MR. MANLEY: The Grand Jury try cases and return indictments after five minutes testimony.

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THE COURT: When they have enough witnesses to satisfy their judgment they stop.

BY MR. BROWN:

Q Did you testify before the grand Jury? A I was there.

Q Did you testify before the grand Jury? A I believe I did, yes, sir.

Q Now I am not talking about believe. Don't you know whether you testified before the Grand Jury in this case? A I said to the best of my knowledge I did.

Q Don't you know that you did not? A Well do I know that I did not? No, I do not.

Q Don't you know that you were not a witness before the grand Jury in this case? A No, sir, I do not know that I was not.

Q Don't you know that the only two witnesses the Grand Jury were Joseph Leonard and Florence McCarthy; don't you know that? A Where was Gentile?

Q I don't know where he was.

THE COURT: They are on separate indictments. It might be that he testified before the grand jury in the Gentile case or it might have been that he testified in this case, I don't know.

THE OFFICER: I did not know the indictment.

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was separate, your Honor.

THE COURT: He says he did not know there were separate indictments..

BY MR. BROWN:

Q Now, Mr. officer, I did not get your name?

A Callanan my name is. Thomas J. Callanan.

Q Thomas J. Callahan? A Callanan.

Q Are you still in the 28th precinct? A No, sir; I am in the 29th precinct.

Q How long have you been in the 29th? A Since last June.

Q Last June? A Yes, sir.

Q Are you in plain clothes now? A No, sir, I am in uniform.

Q In uniform? A Yes, sir.

Q Didn't you move out of that precinct pretty soon after this? A Well just about a month afterwards I left.

Q About a month afterwards? A Yes, sir.

Q When you first got a report of this matter at the station house it was from the lieutenant? A Yes, sir.

Q You don't know how the lieutenant got that report, do you? A Yes, sir, I know he got it from a patrolman.

Q What is that? A I know he got it from an officer.

Q From an officer that came in? A From an officer.

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Q Who was relieving? A From the officers who had the case.

Q The officer who had the case? A Yes, sir; that is the ambulance case.

Q The ambulance case? A Yes, sir.

Q Had the ambulance carried these people to the hospital before you came over there to investigate?

A Yes, sir, they were brought to the hospital before I got there.

Q Before you got there? A Yes, sir.

Q You and Mr. Leonard were sitting in the back room of the station house? A No, sir; we had gone up to bed, then.

Q Gone to bed? A Yes, sir.

Q Everything was calm on the hill. You hadn't got any information about anything. Isn't it a fact that you were telephoned for the ambulance? A That I telephoned for the ambulance?

Q Telephoned for an ambulance to the station house?

A No, sir.

Q What is that? A No, sir.

BY THE COURT:

Q Who telephoned for the ambulance, do you know?

A No, sir, I do not.

Q Have you any knowledge on the subject? A An offi-

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cer I believe.

Q An officer? A Yes, sir.

Q Did Mr. Kilgallen go off his post that night and come to the station house? A I suppose he did; it is customary for them to come to the station house.

Q I am not talking about that? A I didn't see him come there consequently I don't know.

Q He knew something about it before he came off.
past -you don't know whether he reported it or not?

A Later on we found out he knew something.

Q Well you don't know whether he reported anything about it do you? A No, sir, he didn't report anything.

Q He didn't report anything? A No, sir.

Q Coming off post and he did not report any trouble on the hill? A No, sir.

Q And two men were out? A Yes, sir.

MR. MANLEY: He didn't know it, I object to that as assuming something not in evidence.

MR. BROWN: No speeches off you.

THE COURT: Put the next question. Put your question.

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BY MR. BROWN:

Q After you got there, you say now, -- who was present in that house, twelve men and some women, who was the person that you had the most lengthy conversation with, was it the defendant? A Yes, sir; it was the defendant.

Q It was the defendant? A Yes, sir.

Q Was it the defendant? A Yes, sir.

Q You did not know the identity of the defendant while you were having this conversation with him?

A No, sir; only to -- yes, sir.

Q You did not know the identity of him?

A Yes, sir.

Q Did you know the identity of him then when having a conversation with him? A Yes, sir.

Q How long had you been at the house before you discovered his identity? A Well, I think, probably a few moments when this Citrone had said, "That is the fellow".

Q Mr. Citrone? A Yes, sir.

Q Did he have on his badge too? A I don't know what badge you mean.

Q Did he have on a badge of an officer, he was right by your side, he was in your aid? A I didn't know he was an officer.

Q I am asking you. You say you got it from him,

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was he right by your side there? A Yes, sir.

Q While you were there as a police officer and was investigating this affair? A Yes, sir.

Q He was right there? A Yes, sir.

Q He told you the identity of this man?

A Yes, sir.

Q It was all calm then when he was talking to you then, I suppose? A No, sir; it was anything but calm.

Q Was he placed under arrest? A Who?

Q Brown? A They were all placed under arrest.

Q When you had this conversation? A Yes, sir.

Q How long was it after you got there that you ordered the arrest of all the people in that house?
A We were both together, both Leonard and I, neither of us done any ordering that I know of; everybody that was in that flat or that apartment started to get very nasty and rough and we had to lock them all up to do anything with them.

Q I am not taking about several now -- I asked you if you ordered their arrest? A No, sir.

Q you or Mr. Leonard? A No, sir.

Q You did not order their arrest? A No, sir.

Q Didn't you arrest them? A Yes, sir.

Q All of them? A Yes, sir.

Q Men and women? A Yes, sir.

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Q Who was it prohibited you or tried to prohibit you from coming in the hallway or in the door of the premises?

A Well, I can't say, pretty near all of them, I can't tell who.

Q pretty near all of them? A Yes, sir.

Q Did they touch you in any way? A Yes, sir.

Q You were in plainclothes? A Yes, sir.

Q Did you have your badge on? A I had told them --

Q Did you have your badge on? A No, sir.

Q That is it. Answer the question. Did Mr. Leonard have his badge on? A He may have; I would not be positive.

Q Who was the spokesman, you or Mr. Leonard?

A Well, there was so much confusion there nobody could be spokesman.

Q Nobody could be spokesman? A No, sir.

Q But you did some speaking? A I tried to.

Q Did you put your badge on at any time?

A No, sir.

Q While making that arrest? A No, sir.

Q The persons who claimed to have had trouble before, in the earlier part of the evening, you think with you and Mr. Leonard going up there in citizens' clothes and saying that you were officers, without your badges being on, that these people would not get excited, and you came there forcing your way in?

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A I dont know anything about that.

Q You don't know anything about that, don't you know that the badge is the thing for you to put on when you go to make an arrest? A You dont have time td put it on some-times.

Q Especially for a felony; you had time to draw your pistol? A Yes, sir.

Q As you say? A Yes, sir.

Q Did you draw it on the women or on the men?

A The two men that was at the door.

Q You did not menace the women with your pistol, did you? A No, sir.

Q In that house? A No, sir.

Q There hadn't been any women there, hadn't been any women who were purported to be out in the street slashing men, that wasn't told to you by Gentile or anybody else?

A No, sir.

Q Yet you arrested all the women in there, didn't you? A Yes, sir.

Q When you got to the Magistrate's Court the next morning you preferred a charge of felony against them, didn't you? A Well, held them all as --

Q Tell me now, answer my question? A No, sir.

Q You preferred charges of felony against them, and had them all held in a thousand dollar bail, nineteen

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persons? A No, sir.

Q You did not? A I did not prefer ---

Q Isn't it a fact that you didn't have them held?

A You are asking me a couple of questions.

Q I am asking you a question that you can answer yes or no, but you insist upon making a speech?

A I cannot answer that question yes or no.

Q The men and the women, didn't you, as an officer, as the arresting officer on a short affidavit with your name signed to it, asked the Magistrate to hold these persons in the sum of a thousand dollars bail until you ascertained the persons who had done the cutting, all of them woman and men? A Why, I couldn't ask the Magistrate to hold anybody in a certain amount of bail.

Q Didn't you ask that these persons be held in a short affidavit? A Yes, sir.

Q Suspected of having committed a felony upon these men? A Not all; no, sir.

Q They were all held, weren't they? A yes, sir.

Q Do you know when they were discharged?

A Some were discharged at a later date; yes, sir.

Q How soon after?

A Well, the following day, I believe.

Q The following day?

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A Yes, sir.

Q By the same Magistrate that held them?

A Yes, sir.

THE COURT: Do you think this is necessary, any of it, as to the guilt or innocence of this defendant. We are not trying the officer.

MR. BROWN: I am trying to get before this the jury, animus behind all of this case and the circumstances of that night, what happened that night. This defendant is dragged up here charged with a felony that he knows nothing of. That is what I have to get out of this man who was on the scene there and some of them asleep in the station house.

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THE COURT: He said the only reason he held this man was because the man that were out identified him. That is the only reason. He let the others go and only two men were held out of the nineteen. I don't believe you can show very much animus against the other seventeen when he let them all go.

MR. BROWN: I will let that part go.

MR. MANLEY: Yesterday Juror No. 4 asked for the brother of McCarthy.

MR. BROWN: I do not care to be interrupted in this way. I want to go on with this examination.

MR. MANLEY: May I make a statement to the Court?

THE COURT: Yes.

MR. MANLEY: Yesterday afternoon Juror No. 4 asked about the brother of the complaining witness, McCarthy. He had been here all day yesterday until about a few minutes before adjournment and he requested me to let him go. He is now here. The witness is a bartender and he has had some difficulty in getting off.

THE COURT: We will put him on immediately after this witness. The sole question that this man has testified to is in regard to identity, that is all. He knows nothing about the facts.

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BY MR. BROWN:

Q Now, you say that all the people in that room were very much intoxicated, you say, especially the defendant was intoxicated? A Yes, sir.

Q Intoxicated? A Yes, sir.

Q You say that when the defendant was arrested that he said to you, if I understand your direct examination, that he lost his hat? A Yes, sir.

Q Now, did you relate that fact in the Magistrate's Court? A Oh, yes.

Q You said that in your testimony in the Magistrate's Court? A I believe I did.

Q Here comes the believe again. Now, isn't it a fact that this man said to you that his hat was back there in the house, and he wanted to get it? A No, sir.

Q You would not give him an opportunity to go back in the house and get it? A No, sir.

Q He didn't say that? A No, sir.

Q Was he able to stand? A Yes, sir.

Q Well, he was intoxicated? A Yes sir.

Q But he was able to stand? A Yes, sir.

Q Were the others able to stand? A Yes, sir.

Q They were all able to stand? A Yes, sir.

Q But they were all intoxicated? A yes, sir.

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Q Women and men? A Yes, sir.

Q Women and men? A Yes, sir.

Q Do you know that that was a Saturday night?

A Yes, sir.

Q The next morning in court these people were arraigned there? A Yes, sir.

Q Did you hear Magistrate Barlow ask you why are all these people brought there, if they were arrested, if they were arrested at three o'clock and brought to the station house at three o'clock. Did you hear Magistrate Bawlow say, "Why are all these women brought there"?

Objected to. Objection sustained.

THE COURT: It does not make any difference what he said. Don't let us try the women. They are not on trial here.

Q The next Monday morning and Magistrate O'Connor came over? A Yes, sir.

Q came on to take his place? A Yes, sir.

Q And then O'Connor, on my motion, discharged all of these people? A Yes, sir.

Q Do you remember that? A Yes, sir.

Q And the thousand dollar bail all went with it?
(No answer).

Q Didn't you try to insist upon having a disorderly

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conduct complaint made against them?

Objected to. Objection sustained.

THE COURT: Never mind about that. It is what this witness knows -- that is the only thing he is here for. As far as the identity of this defendant is concerned in the cutting of McCarthy and Gentile, ^{that} is only what he has told to you.

BY MR. BROWN:

Q Is that all you know about the identity of the defendant? A What I have testified to.

Q And what was told to you? A What occurred in the hospital and what occurred that morning.

Q What was told to you? A Yes, sir.

Q By these witnesses who first saw you on the street and who went right down to the house with you, and what occurred in the hospital? A Yes, sir.

Q How did you see this blood on the railing in the house? A I came downstairs with Officer Leonard when we got the reserves there.

Q But it was dark, you said? A No, sir; we lit the lights in the hallway ourselves then.

Q You lit the light? A Yes, sir; we lit the lights in the hallway.

Q Was that railing on the left side going up or the right side going upstairs? A The railing was on the

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left side going up.

Q The left hand side? A Yes, sir; the left hand going up.

Q Sure it was on the left hand side? A Yes, sir; pretty sure, yes, sir.

Q The left hand side? A Yes, sir.

Q Sure it was not on the righthand side?

A Pretty sure it was on the left.

Q So a person alleged to have used a razor with his right hand in going upstairs would not use the left railing with that right hand, would he, unless he backed up?

MR. MANLEY: I object to that as argumentative.

THE COURT: Yes.

Q Now, Mr. Officer, one more question, please.

You say when you got to the hospital that you went to the bed of McCarthy first? A Yes.

Q You are sure about that? A Yes, sir.

Q McCarthy identified Roberts? A Brown.

Q Brown? A Yes, sir.

Q Brown -- when he identified Brown, Brown asked to say something? A Yes, sir.

Q And you said, "No argument", and stopped him?

A That is right.

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Q Do you think that that is the proper thing for an officer to do when a man charged with crime stands before his accuser? A Perfectly proper in that place.

Q To stop him from asserting his innocence?

A That was no place for him to say anything; there were eighteen or twenty other patients in that room.

Q You were asking him a question? A I was asking McCarthy a question, not Brown.

Q He had nothing to do with the other patients -- his liberty was at stake -- do you think, as an officer, that that was a part of your duty to stop this defendant from asserting his innocence there, before his accuser, is that the understanding that you have as an officer? A It was not my duty to bring anybody up there to start an argument.

Q But you didn't start any argument, you didn't let him, do you know what he was going to say? A I wasn't going to let him --

Q What is that? A I wasn't going to let him.

Q Well, I leave it to the jury whether or not he had a right to say it, and assert his innocence there. Now, if the other officer said that the defendants were taken to the bed of Gentle, could he be mistaken?

MR. MANLEY: I object to that as asking this witness to characterize the statement of another witness.

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THE COURT: Objection sustained.

Q I am just asking him. I want to bring out all the facts.

MR. MANLEY: I am not trying to conceal the facts, but I want to make some headway.

MR. BROWN: We will try to make some headway if you will keep your seat.

Q Now, when you got to the bed of Gentile after he had gone to the bed of McCarthy, what did Gentile say?

A He says that that was the man that cut him with the razor.

Q Which was the man? A Brown, the defendant.
arraigned first

Q Was Brown ~~sitting~~ at the bed before him? A I believe he was.

Q You believe now, don't you know, you were there?

A I am pretty sure he was the first, Brown.

Q Who was arraigned next? A Roberts.

Q What did he say about Roberts? A He said that was the man hit him with the stick, with the club.

Q So Brown then didn't attempt to say anything to him?

A No, sir; Brown said nothing.

Q He didn't say anything? A No, sir.

Q Would you have objected if he had attempted?

MR. MANLEY: I object to that, being a somewhat hypothetical question.

THE COURT: He may bring out the fact that he

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instructed him in advance not to say anything.

Q Isn't it a fact that you told him in advance?

A No, sir; I hadn't said anything to Brown or to Roberts, that is, after what I stated to Brown, I suppose, he knew he wasn't to say anything.

Q I am asking you, did you say anything to Brown when you got to Gentile's bed? A No, sir.

Q So he didn't have an opportunity to deny there, to assert his innocence before Gentile? A No, sir.

Q That he was not the man? A No, sir.

Q Because he took your admonition at the bed of McCarthy? A That is right.

Q You firmly believe that that was a part of your official duty? A They don't allow anything like that in the hospital.

Q To stop a defendant from denying their innocence when accused of anything, how do you know, are you an attendant of the hospital or an officer at the hospital? A I have been there often enough.

Q Have you had that particular injunction given you as an officer that they don't allow anything like that?

A Oh, yes, I know it from my experience in the hospital.

Q What experience in the hospital have you had?

THE COURT: I would not go into this because it is

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rather obvious, that in a ward where there are a great many sick people that the authorities, the hospital authorities, will not allow any altercation or argument to go on.

MR. BROWN: There wasn't any argument, your Honor. Just simply a denial.

Q Now, Mr. officer, have you told us all that you remember that occurred in this case? A I think so, yes, sir.

Q You think you have told us all? A yes, sir.

Q Now, you are in the 29th precinct? A Yes, sir.

J O S E P H P. M c C A R T H Y, a witness for the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q Mr. McCarthy, are you a brother of Florence McCarthy? A Yes, sir.

Q And upon the 15th day of May, 1910, did you live at 309 West 69th street? A Yes, sir.

Q Are you a married man? A yes, sir.

Q Are you known as Curly McCarthy? A I am, sir.

BY THE COURT:

Q You are not as curly as he is, are you? A I was, but I ain't now, your Honor.

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BY MR. MANLEY:

Q How long had you lived prior to the 15th of May, 1910, at that address? A Well, about a year.

Q Now, were you home on that night? A Yes, sir.

Q Or morning rather, Sunday, the 15th of May?

A Yes, sir.

Q Had you seen your brother in the day time of that day? A Yes, sir.

Q About what time? A About twelve o'clock.

Q Had you expected him home at your house that night?

A Yes, sir; he had told me with his own mouth he would be home that night.

Q What time did you go to bed that night?

A About ten o'clock.

Q What time was it that you heard that your brother had been injured? A It was after one o'clock, between a quarter after and half past one, I ain't sure.

Q Were you in bed at that time? A Yes, sir; I was sleeping.

Q Did you go anywhere after you heard that?

A The officer came to my house and said, "If you want to see your brother before he dies come right away".

Q Did you go anywhere? A I went over to a house across the street from there, 310, third floor front, east side, and seen him there lying on a couch.

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Q That was, of course, before he was taken to the hospital? A Yes, sir.

Q Did you see any wounds on him? A Yes, sir.

Q Where was it? A Right under his heart, there was a piece of something hanging out, it was sticking right out.

Q Out from the wound? A Yes, sir.

Q From the cut? A Yes, sir.

Q Now, how long were you there before he was taken to the hospital? A I was there about ten or fifteen minutes, not longer.

Q Was the priest there during the time you were there in the house, 310? A The priest came as the ambulance was going away.

Q Did you go to the hospital, the Flower Hospital that night? A They wouldn't let me go.

Q Did you see either Officers Leonard or Callanan that night? A Yes, sir.

Q Were you with them for some time? A Yes, sir.
BY THE FOURTH JUROR:

Q Would you mind telling me how many rooms you have in that apartment? A Three.

Q Does your brother often visit you? A Yes, sir; many times he comes in and visits me; he generally, --

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because my mother is a trained nurse and she is always out; she is all alone and has to work for herself.

Q Did you ever notice the man, brown, before?

A No, sir; Never knew him before.

Q The defendant? A No, sir; never seen him.

Q Did those people ever come into your saloon and drink in there? A That man never did; no, sir.

Q Whereabouts is the saloon? A 309 West 69th street; I live in the same house.

BY THE COURT:

Q You know nothing about this cutting?

A No, sir; I didn't see anything of it.

Q You never had a conversation with the defendant?

A No, sir; I did not.

BY A JUROR:

Q Can you tell me why your brother wasn't brought into your house? A I couldn't tell you.

Q Naturally he would be brought there? A Well, if they brought him there he would be welcomed just the same, but he wasn't brought there.

Q How many floors up do you live?

A First floor, rear, east.

Q First floor? A yes, sir.

Q One flight up? A Yes, sir.

Q You haven't got any bed for him? A Yes, sir;

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there was two beds there, one in the front room and one in the kitchen and one in the bed room.

Q You say ~~xxx~~ something was sticking out of the wound, do you know what that was sticking out?

A A piece of the liver or guts, I couldn't tell you what it was, but something anyhow; I seen the doctor with my own eyes push it in.

Q That is, the ambulance doctor? A Yes, sir.

CROSS EXAMINATION BY MR. BROWN:

Q Your brother is living in Keyport?

A He was living in Keyport; he lives in Matteawan-- in Red Bank now.

Q I am not talking about now? A At that time he lived in Keyport.

Q You say he came over to see you at twelve o'clock that day? A Yes, sir.

Q And when ~~he~~ was he to call at your house?

A He said he was coming there to stay that night, but he never came back.

Q He never came back? A No, sir.

Q He came over to see you from Keyport on other occasions, didn't he? A He has, many a time.

Q What time did he get there that night? A He came that day.

Q Other times when he came over? A Well, he came in

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at ten or eleven or twelve o'clock, any time, I guess, that he pleases to come in he came in.

Q Your mother lives with you? A No, sir.

Q She does not? A No, sir.

Q Your brother came to see you? A I told you he came to see my mother; she was out, generally always out, a trained nurse, always out, he went there first and she wasn't in and he came to my house; he came to see me and he said he would be back that night later that night, he didn't come; the officer came to my house and said, "If you want to see your brother before he is dead, come on". I got up and came over without being dressed.

Q That is an answer to the question? A Yes, sir.

Q Your brother has been in trouble before, hasn't he?

A What trouble?

Q Your brother has been to prison? A Yes, sir.

MR. MANLEY: I object to that as assuming something not in evidence. He said the House of Refuge.

THE WITNESS: He was in the House of Refuge for a thing he didn't do.

MR. BROWN: Now, I think it is unfair for the District Attorney to come up here and suggest that answer.

MR. MANLEY: Well, sometimes a witness does not

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know the difference between the House of Refuge and a prison.

MR. BROWN: The House of Refuge hasn't got anything to do with it. He was convicted of a crime and if he is convicted of a crime --

MR. MANLEY: Go ahead.

THE COURT: Put your question.

MR. BROWN: The institution hasn't got anything to do with it.

Q How many times has he been convicted of crime?

A Only once, that I know of.

Q How many times has he been away? A Only once.

Q That was when? A The House of Refuge.

Q When? A About four or five years ago.

Q How old was he then? A I couldn't recall, about eighteen or seventeen, I couldn't recall exactly.

Q What was the crime he committed? A He was arrested for riding on a freight train, charged with stealing a watch and chain, but he didn't do it.

Q Yes. A yes, sir.

Q How do you know he didn't do it? A Because I got the proof he didn't do it.

Q Where is the proof? A Well, the proof is --

THE COURT: Don't let us go into that.

He was convicted and that ends it, as far as we are

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concerned.

Q Riding on a freight train? A Yes, sir.

Q He admitted on the stand he had been in prison for robbery from the person?

MR. MANLEY: Objected to as assuming something that is not in evidence. He did not admit that he went to prison. He went to the House of Refuge, and that is a Reformatory.

Q Robbery from the person?

THE COURT: He admitted that he was convicted of larceny from the person. Put your next question.

Q How long did your brother stay away?

A I could not tell you how long he stayed in there.

Q You could not? A No, sir.

Q Why did he go to New Jersey? A Well, why did he go to New Jersey? Because he had a sweetheart over there and he got married to her, that is why.

Q He was not married at this time? A No, sir.

THE COURT: What time?

MR. BROWN: At the time of this cutting.

Q He wasn't married then? A At the time of the cutting, I don't know what time he was arrested or was not---

Q Did you go to the wedding? A Yes, sir.

Q You were at the wedding? A Yes, sir.

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Q How long ago was it? A Well, that was in the summer time.

Q Last summer? A I believe it was last summer or the summer before, I can't recall just right.

Q Do you remember that this cutting was last May?
A Last May.

Q Now, if your brother said on the stand it was eight months ago, since the cutting, he is married since the cutting? A He has been married after he got out.

Q After he got out? A Yes, sir.

Q So it wasn't before he got out? A No, sir.

Q How long have you been a bar-keeper there in 309 West 69th street? A Pretty near two years.

Q What floor do you live on? A I live on the first floor, rear, in the east.

BY THE COURT:

Q Are you a bartender at 309? A Yes, sir.

Q Do you live there at 309? A Yes, sir.

BY MR. BROWN:

Q For whom do you keep bar there? A For Anthony Maglio.

Q An Italian? A Yes, sir.

Q Colored people frequent that bar? A Yes, sir.

Q Any of them frequent that bar on this night?

A No, sir; not that I recall, unless customers -- I have

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generally some customers that live right across the street from me.

THE COURT: This witness knows nothing about the case, and there is no need of cross examining him. You could do this for about two weeks and never throw any light on the question as to whether this is the person who did the cutting. Somebody out the complaining witness. Now, who was it? That is probably all there is in the case.

MR. BROWN: I would not have asked him that question --

THE COURT: I don't see why you cross examine him at all.

MR. BROWN: I wanted to bring out this witness' conviction --

THE COURT: He is not the proper person.

It is merely hearsay.

BY MR. MANLEY:

Q Just two questions. Do you know about this previous conviction -- at the time of this conviction some years ago, what was done with your brother by way of sentence? A What was done with my brother?

Q Was sentence suspended? A Sentence was suspended.

Q That was in the Children's Court? A Yes, sir.

Q Then afterwards he was sentenced for violating

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his parole, for not reporting , is that it? A Yes, sir.

Q Not reporting to the probation officer?

A yes, sir; he got taken back and he got sent away.

BY MR BROWN:

Q He was sent away, you know, for committing a crime?

MR. MANLEY: I object to that.

THE COURT: You have gone into that so many times.

(The Court then admonished the jury calling their attention to Section 415 of the Code of Criminal procedure and adjourned the further trial of the case until Monday morning, May 1, 1911, at 10:30)

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New York, May 1, 1911.

TRIAL RESUMED

In PART V., Court Room.

Before:

SWANN, J.

THOMAS CALLANAN, a witness called on behalf
of the People, recalled.

BR. MR. BROWN:

Q Mr. Callan, you say you arrested the defendant
at the house and took him to the station house? A That's
right, I did.

Q Did you take him there without his hat? A We
got a hat; it was not his hat.

Q Did you take him there without his hat? A Yes, sir.

Q Without a hat? A Yes, sir.

Q Did the defendant have a hat when you arrested him?

A He had a hat.

Q What became of that hat? A It was at the station
house.

Q It was taken to the station house? A Yes, sir.

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Q Is it at the station house now? A Well, I don't know what became of the hat, no, sir.

Q Well, you were the officer in the case? A It was at the station house, yes, sir.

Q You don't know where it is now? A No, sir, I don't know.

Q Do you know the defendant did not have it?
A No, sir; it was left at the station house.

Q You said yesterday or the other day, that this defendant wanted to stop to get his hat? A That is what I said.

Q He didn't have any hat? A That is right.

Q You wanted to lead this jury to believe that you said something about his dropping the hat in the street in a mix-up? A Yes, sir.

Q That he told you that? A Yes, sir; that is right.

Q Don't you know that that is not so? A No, sir.

Q That the defendant did not tell you anything of the kind? A I do not know, that it is not so.

Q That you took him to the station house, took his hat from him, and had him take off his shoes? A No, sir.

Q Did you have him take off his shoes in the station house? A I don't remember of him taking his shoes off.

Q You don't? A No, sir.

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Q In searching for a razor?

(No answer.)

THE COURT: The question was did you order him to take off his shoes in searching him.

THE WITNESS: I don't remember as we did.

BY MR. BROWN:

Q You don't remember that? A No, sir.

Q You don't remember threatening him with the night stick if he didn't take them off gently? A No, sir.

Q You don't remember that? A No, sir.

THE COURT: What has that got to do with whether or not the defendant cut the complaining witness?

MR. BROWN: I want to show the animus of this man towards this defendant, as an officer of the law.

THE COURT: I don't think it shows any special animus. If he did not consent to be searched pretty quick he might get the night stick, gently.

BY MR. BROWN:

Q Was that hat left at the station house or was it carried to the property clerk, where all articles of evidence intended to be used in a criminal trial are kept?

A Probably it was sent to the property clerk, I don't know.

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Q What was done with the hat?

THE COURT: Let us cut out that hat. I don't think it has anything to do with the case. Let us assume that he took his coat, that the police department confiscated his coat or if you want stole his watch, we will have it that way, cut out the hat and let us try the case. That hasn't got anything to do with the guilt or innocence of the defendant.

THE WITNESS: But your Honor this hat was not his.

THE COURT: It does not make any difference whether it was or not.

MR. BROWN: Does ^{not} your Honor think that it is material in this way: If the officer on the stand, when he went to the stationhouse, that this defendant told him that he had a hat, but he lost it in a mix-up in the street. I am asking him this question about the defendant having his hat or going to the station house with the hat.

THE COURT: Well --

MR. MANLEY: That is a hat that they say they found in the house. That is the testimony.

MR. BROWN: Don't you sandwich in anything between this. There is no such thing in the evi-

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dence.

MR. MANLEY: Ask him again and he will tell you.

MR. BROWN: Of course he will after you instruct him.

MR. MANLEY: That is what he testified to last Wednesday as I remember it, Mr. Brown.

MR. BROWN: Well, we have something more important than your memory.

MR. MANLEY: I have the minutes here.

MR. BROWN: There is a live witness putting it all down.

BY MR. BROWN:

Q Have you told this jury all that happened. You didn't find any razor, did you? A No, sir; I found no razor.

Q You tried to find one, didn't you? A Yes, sir.

MR. BROWN: That is all Mr. Callanan.

BY A JUROR:

Q Now let me see: Did I understand you to say that the defendant told you that he had lost his hat in the street? A That is right.

Q Did I understand you also to testify -- I think it was the last officer -- that a hat was found for the defendant when he was taken from this house at 329 and brought to the station house? A That didn't fit him, the hat which

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we had for him.

Q The hat you just said was left at the station house? A Yes, sir; that is the hat.

Q Now, if I remember it you testified that McCarthy's brother was found that night, is that so? A Yes, sir.

Q You saw him that night? A Yes, sir; that morning.

Q That morning, Sunday morning the 15th of May? A Yes, sir.

BY MR. MANLEY:

Q You also found a man named Citrone who was at the house with you at the time of the arrest? A Yes, sir.

Q The house 329? A That is right.

Q Did those two men, McCarthy and Citrone, have anything to do with finding these other witnesses for you?

A Yes, sir; Citrone as I stated --

Q Your answer is yes? A Yes, sir.

Q Now did you see the witness Coster in the Police Court at the time the defendant was taken to the Police Court upon Monday? A Yes, sir.

Q Did he identify any one there at that time?

A He did.

Q Whom did he identify? A He identified Brown.

Q Did you see Ruffo in the Police Court upon Monday?

A I did.

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Q Did he identify either of the defendants Brown or Roberts? A He identified Harrison or Roberts afterwards; he was under the name at that time of Harrison.

Q Did the defendant Brown give his name as Brown when arrested? A No, sir; he did not.

Q Do you know what name he gave? A He gave the name of Samuels.

Q Was that put on the police blotter? A Yes, sir; that was the name on the blotter that morning.

MR: MANLEY: I have in the meantime secured a transcript of the blotter.

Q Do you know whether or not the defendant gave the name of Charles H. Roberts when arrested? A No, sir, he did not.

Q Do you know what name he gave? A He gave the name of Harrison.

Q Now, do you know whether or not there is any street lamp opposite or near 316 West 69th street?

A Yes, sir, about in front of 316, I believe, about in front of 316.

Q Now, when you got back to the house 329 West 69th street, did you have any conversation with the defendant Roberts in the presence of Brown about where Roberts had been that night? A I had some conversation with Roberts.

Q Was that in the presence of Brown? A Well, no sir,

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it was not, because --

Q Well, I won't ask for it.

MR. BROWN: I object to that. Roberts is not on trial here.

MR. MANLEY: We are trying Brown. I have asked him if it was in the presence of Brown.

THE COURT: Don't debate the question when it is withdrawn.

BY MR. BROWN:

Q Now, you say that Brown gave you the name of Samuels?

A Yes, sir.

Q As his correct name? A He gave it to the lieutenant who took his pedigree.

Q As his correct name? A Yes, sir.

Q What evidence have you to show that that is not his correct name, Charles Samuels? A I have no evidence whatever.

Q Did he show any envelope or paper or anything showing that his name, the real name was Charles Samuels? A No, sir, I did not ask him for it.

BY THE COURT:

Q Were you present --

BY MR. BROWN:

Q How did they get the name Brown? A He changed it himself in court.

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Q In what? A In court; in the Magistrate's Court.

BY MR. MANLEY:

Q When you got into court Monday did you see him sign his name there as Brown? A Yes, sir.

Q Is that the signature? A Yes, sir.; that is the paper he signed, that is his formal.

BY MR. BROWN:

Q Well, now when he was asked in court-- do you know whether or not they told him he would have to write the same name in court that was written in the station house on the blotter? A I can't very well answer that yes or no.

Q Well, I am asking you did you hear it? A At the court room? When he was asked his right name he gave the name of Brown when his formal was taken.

Q How near were you to him? A Well right alongside of him.

Q Right alongside of him? A Yes, sir.

Q How near were you to him in the station house when he gave his name Samuels? A Also alongside of him.

Q Right alongside of him? A Yes, sir.

Q Don't you know his name is Charles Samuels?

A I don't know what his name is.

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Q And his brother whom these thugs assaulted his name is Edward samuels? A No, sir, I don't know.

Q Don't you know he never had any other name until he got in the hands of you people?

MR. MANLEY: Do you want to amend the indictment to read Charles Samuels?

MR. BROWN: Yes, I will prove it, when I put the witness on the stand that his name is Charles Samuels; that he never had any other name; that they changed it to suit themselves in court.

THE COURT: Cross examine him as to how he signed his name Charles Brown before the City Magistrate.

Q Now who caused Charles Samuels to sign his name as Charles Brown? A The clerk drawing the complaint up.

Q The clerk? A Yes, sir.
Not the Judge --

Q You were standing right by him now? A The Judge don't draw the complaint up.

Q I am not talking about the Judge or what the Judge was doing. You answer my question. Who caused him to change his name to Charles Brown? A He said to the clerk, he asked him his name, what his name was, and he said the name and signed it.

Q Did you say anything about his giving his name, about his giving his name in the Police Station house as Charles Samuels to the clerk? A I don't know as I did,

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no, sir, I don't know as it made much difference at that time.

Q Is your memory pretty good now? A This is a year ago, I don't know.

Q You don't know whether that occurred or not?

A I don't think I said anything about the name in the station house.

Q Your mind is as clear on that as it is on the hat question, ain't it? A No, sir.

MR. MANLEY: I object to that as being incompetent and immaterial.
if

Q Now, that hat that you took and left it at the station house was too large for this defendant why didn't you have it in court here to show that fact to this jury?

A Well, he denied that the hat was his.

Q You took it and he said that it was too large for him, why didn't you have it, why didn't you bring it here as evidence?

MR. MANLEY: I object to that.

THE COURT: I do not see what the hat has to do with the case.

MR. BROWN: He says that hat that was left at the station house was too large for this defendant and that is why he said it was not his hat. Now if it was too large for him why did they keep

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it there, why don't they bring it here to court. Why didn't you bring the hat into court so this jury could see it.

THE WITNESS: The hat was an old hat, and I never thought it was necessary.

Q Never mind whether old or new. You ain't the judge in this case.

MR. MANLEY: I object to these remarks.

THE COURT: These side remarks are wholly unnecessary. You may put any question that is germane to the issue to the witness, but you cannot make side remarks. Please state to us what you think if you will, you need not if you don't want to -- what is there about this hat. It does not penetrate me. The officer says the defendant had a hat which was too large for him, and it was left in the station house. Now, suppose it did fit him or did not. What has that got to do as to whether or not he cut this complaining witness McCarthy. I fail to see it, but at the same time --

MR. BROWN: If your Honor please, I can state it simply -- because they put that in here as a circumstance to discredit this witness.

THE COURT: I do not see that it hurts him any.

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MR. BROWN: I know it doesn't hurt him, but I am afraid if I don't bring these things out--

THE COURT: I don't see that it does any good either one way or the other. You may call our attention to it. Now let us get to the subject of his giving the name of Brown before the City Magistrate.

BY THE COURT:

Q Officer, what were the circumstances under which he gave the name of Brown. State to the jury please the circumstances? A Well, no matter what name he gave in the station house, he was brought up in court, when the complaint is drawn up against him, his pedigree is again taken, and he writes on a formal slip of paper --

Q By whom? A The clerk, in the City Magistrate's Court, a blank.

Q Tell us what you did in this case. Did you have the defendant right at the bar where the clerk was? A I had him right up in front of the clerk, at the bar.

Q Just explain just exactly what did the clerk do and what did the defendant do? A The first thing the clerk asked him is his name.

Q Not generally, but what did he do in this case?
A In this case his name.

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Q What is your name? A Yes, sir; what is your name.

Q What did the defendant say? A He said his name was Charles Brown.

Q What did the clerk do then? A The rest of his formal all the way down; then he signed his name.

Q Did you see him sign it and ^{it was} attested there before the City Magistrate O'Connor? A Yes, sir, I did.

Q In your presence? A Yes, sir.

Q Did they ask him any questions, ask him if it was a true statement? A The Magistrate asked him, generally, if that was their name, is that was their signatures.

Q What did the defendant say? A The defendant said, yes.

Q Now did anybody advise the defendant to sign the name of Brown or any other than his own? A No, sir.

Q In your presence or hearing? A No, sir.

Q Did you ever hear any remark to that effect that he was advised, cajoled or persuaded into signing some other name? A No, sir.

BY MR. BROWN:

Q Don't you know that you told this defendant to sign his name as Charles Brown-- he wanted to sign it as Charles Samuels, the name he gave in the station house when

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arrested by you? A Why no, I told him that --

Q I am asking you the question; don,t you know you did? A Certainly not; positively not.

MR. BROWN: He did;

MR. MANLEY: I object to counsel testifying.

THE COURT: Do not continue that. You know it is wrong. I have called your attention to it several times. You are not testifying here and if you want to testify to anything that you may think will be material we will be very happy to hear from you.

MR. BROWN: I beg your pardon. I will try to think of it. I will try to think of the suggestion.

BY MR. MANLEY:

Q Just two questions in view of what has been asked. On Monday when the defendant Brown was taken to the Police Court did he wear a hat? A No, sir.

Q Was that the same hat he had worn from the house 329 to the station house? A He had no hat in the court at any time; he didn,t want the hat.

Q When the defendant was taken from the station house of your precinct after his arrest to court on Monday did he wear a hat? A No, sir.

Q He went there without a hat? A Yes, sir.

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BY MR. BROWN:

Q Do you know why he didn't wear a hat, didn't you have his hat, didn't you have his hat locked up in the station house? A No, sir.

Q Had he any opportunity to get his hat from Sunday morning until Monday morning; wasn't the hat that he wore at the station house kept in the station house by you?

THE COURT: There are three questions there.

Q I will ask this question and put it this way; did he ask for his hat when you started to take him to the City Magistrate's Court? A No, sir.

Q Did you offer to get him a hat, to give a hat to him when he left for the City Magistrate's Court? A No, sir.

Q Was there anything said by you or by him in regard to that hat as you were taking him to the City Magistrate's Court? A At that time, no sir.

Q At any time? A At the flat when the arrest was made.

Q What was said about a hat then? A He said that he had lost his hat on the street; I said, "Have you got a hat in the house", he looked around and the only hat that was there was an old derby hat, that old derby hat which was fully two or three sizes too large for him; and that was the only hat was in the station house; and

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we took that hat to the station house; that was the only hat in the flat and we took that hat to the station house.

Q On his head or in your hand? A He took it and wore it in the wagon; what he did with it on the way to the station house --

Q You took him in the patrol wagon? A Yes, sir.

OFFICER JOSEPH F. LEONARD, a witness called on behalf of the people, having beenduly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q What precinct? A Twenty-fifth Precinct.

Q On Sunday morning the 15th of May of last year were you an officer attached to the Twenty-eighth Precinct?

A Yes, sir.

Q Were you what is commonly known as a plain clothes man? A Yes, sir.

Q Now sometime about two o'clock in the morning of the 15th did you go somewhere with the last witness, Officer Callanan? A Yes, sir, I did.

Q Had you received any information before you left the station house? A I had.

Q Where did you go? A I went to West 69th street, between West End avenue and the railroad track.

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Q Now did you talk to anybody on the street in that block, yes or no? A Yes, sir.

Q After you had talked to that person on the street, did you go anywhere? A yes, sir; we did.

Q Where did you go? A We had spoken to an Italian by the name of Citrone; we stood there talking to him for about a minute, and he said --

Q The question is where did you go? A We went to West 69th street between the railroad track--

Q Yes, I know, but what number, what house? A We were standing in front of 310 West 69th street and we went from there to 329.

Q Who went with you to 329? A An Italian by the name of Citrone, Officer Callanan and myself.

Q Where did you go in that house? A We went to the second floor front, east side.

Q What happened when you got up there? A When we were going up-- we went upstairs, Officer Callanan, myself, and this Italian named Citrone. As we got to the second floor, to the landing, Citrone seen that colored defendant in the hall.

Q This defendant Brown? A Yes, sir; he said, "That's the man done the cutting." And Officer Callanan and myself went to go to the front, and they went inside in the apartment, and Officer Callanan --

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Q Who went into the apartment? A About five colored men in the hallway all went into the apartment and closed the door.

Q What floor were they on when you first saw them?

A On the second floor.

Q Out in the hall? A Yes, sir; And Officer Callanan knocked at the door there telling them he was an officer. The door-- somebody opened the door on a jar, and asked Callanan who he was; Again Callanan told him he was a police officer and he opened the door. So Officer Callanan told them then we were looking for a colored man who had cut two white men on the street, "They are not in here" was the answer we got. He went to push Callanan and myself out so Callanan drew his revolver and told them he would be found in the house, I heard that he was just in the hallway", Callanan told me to go downstairs to see if I could get another officer and just as I was about to leave Callanan two uniformed patrolmen came up in the hall; they went inside with Callanan, and I went downstairs and called out the reserves.

Q How long about did it take you to go down and call out the reserves? A About five minutes.

Q Then did you return to this place? A Yes, sir.

Q What took place after you got back? A When we got back there we couldn't do anything, the crowd was

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disorderly, we couldn't do anything until the reserves arrived.

Q About how many reserves came? A About ten.

Q What happened after they got there? A After that patrolman got there we placed all hands under arrest and to the station house.

Q Just before you got to the station house, did you have any talk or hear anybody have any talk with the defendant Brown either in the house or on the way to the station house?

A No, sir, I did not.

Q What can you say as to Brown's condition as to sobriety? A Well Brown was intoxicated.

Q What can you say as to the condition of the others who were taken to the station house? A They were all intoxicated.

Q Did you see the co-defendant Roberts in the house? A Yes, I did.

Q What was his condition as to sobriety? A He was intoxicated.

Q When you got up there to his apartment, did anybody attract your attention to any part of your person?

A Yes, sir, as I went upstairs I got my hand full of blood.

Q When did you notice that you had blood on your hand?

A When I got to the second landing, my hand was all blood.

Q Which hand? A The right hand.

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Q Did you make an investigation to determine where that came from? A Yes, sir, I did; we went and took matches and went all the way along the hall, on the banisters, on the ground floor at the corner of the banister was like the impression of a hand which had been on the banister there; it was all marked up with blood.

Q Was that blood fresh at all? A Yes, sir.

Q Was it just in that one spot or in other places?

A Just in that one spot.

Q Who went to the station house with you besides these reserves that had come there?

(No answer.)

BY THE COURT:

Q While you are on the blood mark or blood stain on the banister -- did you notice about the defendant -- any blood stains on him? A No, sir, there were not; not that I noticed.

BY MR. MANLEY:

Q Who was it that went to the station house with you besides the reserves? A There were 15 persons taken from the second flat there.

Q Did Citrone go to the station house? A Yes, sir.

Q Did Citrone do anything after you got to the station house? A Yes, sir.

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Q What did he do? A He identified the defendant as the man who he seen doing the cutting; that it is the way he explained it.

Q How did he do the identification, how did he make it? A They were all put in a line in the back room of the station house.

Q That would make how many in the line? A There were ten; and this defendant had no hat.

Q Now did you hear any conversation or did you have any conversation with the defendant about his hat? A No, sir, I did not.

Q Can you tell me what name the defendant gave at the station house? A Charles Samuels was the name.

Q What name did the defendant Roberts give at the station house? A He gave the name of Charles Harrison.

Q Did you go to the hospital later on? A No, sir, I did not.

Q Now when were the police court proceedings, the first police court proceedings, were they on that same day Sunday or the following day Monday? A On Sunday.

Q Did you have any of the witnesses in court on Sunday? A Yes, sir; we had all the witnesses there in court.

Q Among the witnesses were Citrone and McCarthy's brother? A Yes, sir, we did.

Q Did any identification take place on Sunday in the

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Police Court by any of these witnesses? A Yes, sir, the witness Ruffo identified Roberts as the man he had seen with the club.

Q Any other identification? A Louis Tocci identified this defendant as the man he had seen there in the street with the razor.

No cross-examination.

WILLIAM G. LONGET, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q What precinct? A 28th Precinct.

Q You are a police officer attached to the New York Police Force? A yes, sir.

Q Upon the 15th day of May, were you attached to the 28th Precinct? A Yes, sir.

Q Did you go on post at 2 a. m. in the block West 69th street? A Yes, sir.

Q Did you follow Officer Killgallen on that post?
A Yes, sir.

Q When you got on post there did you hear anything about any trouble, any stabbing or cutting on the street?

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A Yes, sir.

Q Answer this yes or no; did you talk to anybody about it? A I only talked to --

Q The answer I asked for was yes or no? A No, sir.

Q Did anybody say anything to you about it? A Yes, sir.

Q Who was that some one? A An Italian woman leaning out of a window, crying, told me --

Q I did not ask you what she said because that is objectionable. Who was that some one an Italian woman?

A Yes, sir, an Italian woman.

Q Did she say something to you? A Yes, sir.

Q After she had said something to you did you go anywhere? A Yes, sir.

Q Where did you go? A I went up into the house where she was at the time.

Q What house was that, do you remember the number?

A That 310 West 69th street.

Q Where did you go in 310? What part of the house?

A The second floor front.

Q The second floor front? A Yes, sir; the second floor front, in the hallway.

Q What did you see when you got there? A I went up on the second floor and found one man lying in the hallway.

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Q Which man was that, Gentile or McCarthy? A Gentile.

Q Did you see McCarthy? A Yes, sir.

Q Where did you see McCarthy? A In the apartment of this Italian woman who had spoken to me about this man being there.

Q Did you see any wound upon McCarthy? A Yes, sir.

Q Where? A In his left side.

Q Can you describe the wound or tell us anything about it? A Well on his left side about here (indicating) he had a stab wound; I could see his entrails was hanging out about 6 inches.

Q Can you tell us anything about the wound to Gentile? A Yes, sir; I found gentile lying on his side in the hallway; he had a very large cut from almost the center of his stomach right around to the rear of his hip, a very wide, open wound.

Q Did you take him to the hospital or have anything to do with it-- you rang up the ambulance? A yes, sir.

Q Did you ring up the ambulance? A Yes, sir.

Q Did you go to the hospital with them? A Yes, sir.

CROSS EXAMINATION BY MR. BROWN:

Q You say you saw both of these wounds? A yes, sir.

Q Could those wounds have been inflicted by a person

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standing immediately in front of the man who was injured?

MR. MANLEY: I object to that question as being hypothetical. I object to it as a matter of argument.

THE COURT: Have the jury seen the wounds?

MR. MANLEY: Yes, sir; they saw the wound of McCarthy.

THE COURT: Well, they will have to judge of that Mr. Brown. This witness is not an expert. What is the occupation of the witness?

MR. MANLEY: A police officer.

THE COURT: He is not an expert.

Exception.

MR. MANLEY: I wanted to recall Officer Kilgallen, and he is not here, and with that exception I rest.

THE COURT: The people rest with the exception of recalling officer Kilgallen.

MR. MANLEY: I have two other witnesses, Citrone and Tocci whom I have sent for. If they come in I would like to put them on the stand. They have not arrived as yet. One is in Boston.

MR. BROWN: Do I understand that the people rest and reserve the right to put other witnesses

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on after I get in my evidence.

THE COURT: Yes; if they come.

MR. BORNW: They have been at it three days now.

MR. MANLEY: I will state my position. I find the witness Citrone now lives in Boston. I had subpoenaed him. I caused a letter to be written to him to be here this morning. I find that the witness Tocci is working up at Crotona, N.Y. and I caused him to be subpoenaed, and I expect him this morning.

THE COURT: You had better have them called.

(The witness were called,) and failed to respond.)

MR. BROWN: I move that this case be taken from the jury on the ground that Charles Brown, the defendant, has not been shown by the evidence here that he was the person, absolutely the person who did this cutting, if your Honor please.

THE COURT: Let me see if I get your idea. You move to dismiss upon the ground that his name is not Charles Brown or do you move on the ground that it is now shown by the evidence that the defendant whatever his name may be was the man who did the cutting?

MR. BROWN: Yes, sir, that is it, by the evidence, the witnesses, those who were on the scene of the cutting. Now, if your Honor please, you will understand that

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the first witness McCarthy testified that when he went up to this man he had a guitar in his hand holding a crowd off at abt, he went too near him and he got it.

THE COURT: Well, I will leave that entirely to the jury. It is a question of fact for the jury to determine and not for the Court. It is a question of fact depending entirely upon what view the jury takes of the evidence and whether they believe the witnesses. If they do there is sufficient for them to find a verdict of guilty -- if they believe the witnesses. I will have to deny your motion without prejudice to you in any way.

MR. BROWN: before your Honor denies it, I would like to have the reasons for making it on the record. You will remember that the officer Officer Kilgallen said that he saw three men in the hallway, Charles Brown, another man and Charles Roberts, and the third man has not been seen. We claim that this third man was the man that came down on the street and he reported the fact to Mr. Kilgallen and Kilgallen claims that he took these three men to this restaurant and asked them to point out the men in the restaurant that had assaulted him. He claims that they did not do it. Now the third man, we claim was the man who did this cutting.

MR. MANLEY: Isn't that a matter of defense?

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THE COURT: That is a matter of argument.

MR. BROWN: I am arguing this motion.

THE COURT: No, that is entirely for your address to the jury.

MR. BROWN: I want to get in for the future, into the record, my motion.

THE COURT: You have your motion on the record. If you deny it I simply want to get it in the record, the basis of my motion.

THE COURT: You are addressing to me what you should address to the jury in your opening to them. You are telling what you propose to prove. You are asking me to dismiss the case.

MR. BROWN: Your Honor disallows the motion?

THE COURT: Yes. You move because the evidence is insufficient to justify a verdict?

MR. BROWN: Yes, sir.

THE COURT: I deny that motion, without prejudice to you in any way. Now you tell the jury what you propose to prove.

MR. BROWN: I have another motion. I except to your Honor's ruling. I ask the Court to take from the consideration of the jury the first count in this indictment charging assault in the first degree.

THE COURT: Motion denied.
Exception.

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THE DEFENSE.

CHARLES SAMUELS, (the defendant Charles Brown) duly sworn testified as follows.

DIRECT EXAMINATION BY MR. BROWN:

Q Where do you live? 223 West 61st street.

MR. MANLEY: I move to amend the indictment-- the defendant having now stated that his name is Charles Samuels -- I move that the indictment be amended so that the title of the case will read "The people of the State of New York against Charles Samuels, indicted as Charles Brown".

THE COURT: What have you got to say against that. Mr. Brown?

MR. BROWN: We have no objection whatever. This is the first opportunity we had to put him under oath.

MR. MANLEY: You didn't get any opportunity in the Police Court at all?

MR. BROWN: In the station house yes, but the officer kept us from doing it.

BY MR. BROWN:

Q Now, what is your name? A Charles Samuels.

Q Will you sit up there and speak loud so that these

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gentlemen can hear you? A Yes, sir, I will.

Q Charles Samuels where did you reside the 15th day of May last year? A 329 West 69th street.

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

Q Borough of Manhattan? A yes, sir.

Q How long did you reside there? A About three months.

Q With whom did you reside there? A With my brother.

Q What is your brother's name? A Edward Samuels.

Q Edward Samuels? A Yes, sir.

Q Was he there on that night? A Yes, sir, we were all there having a birth night party.

Q How many other persons were in the apartment that night? A There was 15 or 16 or 17, I couldn't really say.

Q Were they all men? A Men and women.

Q Men and women? A Yes, sir.

Q About what time of night was it when your brother returned there? A Well, it was near two o'clock, or after two o'clock.

Q Well how long had your brother been out from the apartment when he returned? A Well about three-quarters of an hour.

Q What, if you know did he go out for? A Well, he went out for a guitar, to get some music.

Q What is that? A He went out to borrow

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guitar from one of his friends at 61st street.

Q Well did anybody go out of the house with him?

A No, sir, he went alone.

Q Did he return that night? A yes, sir, he did return.

Q Did he have a guitar with him? A Yes, sir.

Q What became of the guitar when he returned? A Well, he just slipped in at the door to one of the Moys and he said, "Somebody held me up."

MR. MANLEY: You are asked what became of the guitar?

THE WITNESS: He slipped it in the door to comebody in the house.

BY MR. BROWN:

Q Did he come in? A No, sir.

Q What was the condition of his face when he came back with the guitar? A He had a swollen lip, his face was all in blood.

Q All in blood? A yes, sir.

Q You saw that? A Well a few of us saw it in the house, not all, because some was in the front; he passed the guitar through the kitchen.

Q When he left the house then you and Roberts were in the house at that time? A yes, sir.

Q Now when he left the house did any one go with him?

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A Myself and Roberts went with him.

Q Yourself? A yes, sir.

Q Where did you go with him? A Down the street to get a policeman.

Q How far down the street did you go? A We went pretty near up the block couldn't see nobody; we came back, a woman who lived on the ground floor said "there is a policeman going down". We went back, and Edward made a complaint to him; carried him to the restaurant where the woman said these boys ran in. When we went down in the street we didn't see a policeman; we started to come back in the house, a woman living on the ground floor said, "There is a policeman coming down now". We turned back, and Edward laid the case before the policeman -- the woman was going up and said the boys -- the woman told us.

Q Speak out loud and distinctly? A Yes, sir, all right I will. When we went downstairs we went to the corner didn't see no policeman, on our way back a woman says, "There is a policeman coming down the street now." We turned back and she said, "The boys has gone in the restaurant across the street", and that restaurant is 304 West 69th street. We went there with the police man and told him, Edward told him "I was coming home", he says, "with my guitar, a bunch held me up for the price of a pint

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he said, "he told them he had no dime for the price of a pint", and said, "why don't you work", the bunch jumped on him, knocked him down. Then he said to the policeman, he said, "There is the bunch down in the restaurant".

Q What policeman was that? A Kilgallen.

Q What did he do? A He stands on the corner right by the stoop, he didn't go down. He said, "point me out the one", Edward said, "The whole bunch, five of them down there". He said, "Point out which one?" "All of them held me up". He said, "I can't make no arrest, it is in private property". So I said, "Come ahead let us go down. Myself, Ed. and Roberts went down the street along with Kilgallen". He stood -- Officer Kilgallen and Ed. stood by the lamppost and Roberts and I went into the house. I didn't see Ed. not until now. They held me next morning for the charge. I left him and the officer by the lamppost; the officer looking him square in his face.

Q Were you in that crowd at all? A No, sir.

Q I mean fighting? A No, sir; I was not.

Q Did you have a razor that night? A No, sir; never carried a razor in my life.

Q Did you speak to any living soul on the street that night except this officer? A No, sir, nobody but the officer; I didn't say a word to the officer either.

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Q What did you do after you and your brother and Roberts made the complaint to this officer? A I went back to our home but the officer stood by the lamppost talking.

Q Did the officer accompany you back to your home?

A Yes, sir; right in front of our home across the street from the door.

Q The officer came back there? A yes, sir.

Q The officer, in his examination, said the first he saw of you was at 329, the three of you looking out of the door, when he was going down there. He said that an Italian had called his attention to three fellows that had gone down there. Had you been on the street before you saw this officer? A No, sir; I was up on the street, on the corner.

Q Was Roberts down on the street? A The three of us went out together.

Q After he had returned the guitar? A Yes, sir.

Q Did you see your brother's face? A Yes, sir, I did.

Q What was the condition of it, while talking to the officer? A His lip was swollen, his face all covered with blood.

Q Now where did the officer leave you and your brother? A We left the officer and my brother by the lamppost and myself and Roberts went into the house.

Q Have you seen your brother since? A I have not.

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Q Who did the talking with this officer? A My brother did.

Q You left your brother out on the street talking with this officer? A Yes, sir.

Q You went upstairs? A Yes, sir, I did, I went upstairs.

Q Now how long was it after that -- after you left your brother on the street talking with the officer that you and all the other people in that house were arrested?

A About four o'clock or half past four.

Q About how long after you left the officer? A Well it was about an hour and a half after.

Q About an hour and a half after? A Yes, sir.

Q When they came to the house, what was said by the officer? A They knocked at the door and we said, "Who is there?" They opened it and there were the officers, "What do you want?" and he said "I want to identify somebody done some cutting out in the street", and somebody said, "No cutting done here", so a fellow said, "if you are an officer show your badge!" He didn't display his badge and we wouldn't let him in.

Q Did he show his badge? A No, sir; he did not display his badge at all.

Q Was the parties in uniform? A In citizens clothes.

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Q How many of them were there? A Two.

Q Did either of them display a badge? A They did not.

Q After they were let in what did they do? A They went and got some more officers with uniforms on, and then we let them in.

Q Then you let them in? A Yes, sir.

Q Then what was done? A They arrested the whole bunch in there, the whole party; they said the whole party was under arrest.

Q Women and men? A Yes, sir.

Q Do you know the charge that was put against you?
A I don't know what the charge was, but it was in the Police Court --

Q Do you know the charge made against you at the Police Court the next morning? A No, sir, I do not.

Q Don't you know the charge made against you in the Police Court? A Charged me with assault, homicide, Sunday morning.

Q Now, when you got to the station house that night who questioned you? A Well, I couldn't rightly tell; Officer Callanan he asked me what was my name "Charles Samuels;" he says, "you are telling a story", "My name is Charles Samuels". He says "you are telling a story, give your right name." I pulled an envelope out of my pocket with my name on it and he said, "Your name is Charles

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Brown"; I said, "My name is Charles Brown?"

Q That is the officer said? A Yes, sir, Callanan.

Q That is the way he put it down? A Yes, sir,
that is the way he put it down.

Q Now when you got at the Police Court the next morning
was it before the court, the clerk drawing the complaint,
the complaint, what did you tell the clerk then? A I
refused to put the name Charles Brown. He said, "Did you
ever go by that name".

Q Not the Judge -- now --

MR. MANLEY: Let us have what the Judge
said.

MR. BROWN: Mr. District Attorney if you will
just leave me alone.

THE COURT: He says, I have got to go under
this name because that is the name I am down by.

Q Who said that? A The officer said that to me.

Q Where was the officer then? A Right standing be-
side me.

Q In the clerk's room? A Yes, sir.

Q What officer was this? A Callanan.

Q You said you refused to answer the name of
Charles Brown? A Yes, sir, I refused to answer the name
of Charles Brown.

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Q Have you ever gone by the name of Charles Brown?

A Not in my life.

Q Do you know by what means they induced you to put in the name of Brown? A I don't know.

Q Do you know why they refused to accept your right name? A I don't know.

Q Now, you were arraigned the next morning? A Yes, sir.

Q In the Magistrate's Court? A Yes, sir.

Q The 15th? A Yes, sir; on the 16th, it was, -- on the 15th, yes, sir, on a Sunday morning.

THE COURT: If you do not talk loud the jury cannot hear you. This is for your benefit, they are sitting there to give you all the benefit that they possibly can, if you talk down in your shirt bosom instead of talking right to the, you must abide the result.

Now we have called your attention to it repeatedly.

You must talk loud, shout it.

BY MR. BROWN:

Q What became of the 15 persons arrested, with you there .

THE COURT: Let them rest. They are not on trial. The defendant is the only one we are trying and this is taking up time but if you find it is of any benefit to you go ahead.

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MR. BROWN: I want to show your Honor,--

THE COURT: Go right ahead.

BY MR. BROWN:

Q Do you know what bail those 15 persons were put under?

MR. MANLEY: I object to that as being incompetent and immaterial.

Objection sustained.

Q Now you were not tried that morning? A No, sir.

Q How soon after that were you tried?

MR. MANLEY: I object to that because it is assuming something that it is not a fact. There is never a trial in the Police Court.

THE COURT: Call it a hearing.

Q How soon after that occurred in the Police Court did you have your examination on this charge? A That was on Tuesday or Monday afternoon.

Q Well you were up there while this complainant was in the hospital, were you not? A Yes, sir.

Q Now did you on the 15th of May -- now did you stay in the Magistrate's Court or in the City Prison up there?

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

THE COURT: It is wholly incompetent and immaterial but he may answer it.

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MR. BROWN: I withdraw the question.

Q Now we will come to another point. Now did you wear a hat that night when you were arrested? A I had left with a hat -- left the house when they arrested me.

Q Was it your hat? A Yes, sir, it was my hat.

Q Was that the hat you wore on the street when you met the officer? A Yes, sir.

Q Was that hat too large for you? A No, sir, it was my own hat.

Q What was the color of that hat? A It was a black derby hat.

Q A black derby? A Yes, sir.

Q What became of that hat? A The officer took the hat from me in the station house, Officer Callanan.

Q Officer Callanan took it from you? in the station house? A Yes, sir.

Q What did he say when he took the hat? A He said, "This hat don't belong to you", he says, "this hat belongs to somebody else;" I said, "No, that is my own hat". He says, "Where did you get it," and I said, "That hat was given to me at the hotel where I was working."

Q So he kept the hat in the station house? A Yes, sir, he kept the hat in the station house.

Q Did he do anything else to you? A Make me take my

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shoes off or stockings and socks off looking for a razor, but he didn't find any. I said, "Are you satisfied?" And he said, "If you don't own up you cut that man, I will hit you."

BY THE COURT:

Q Did he hit you? A No, sir; he did not.

Q You didn't own up that you cut the man? A No, sir.

BY MR. BROWN:

Q Now have you seen that hat since? A No, sir? I did not.

Q Did you tell the officer you met on the street that night that you lost your hat? A No, sir.

Q In a mix-up? A No, sir, I did not.

Q Now when you went to the station house Monday morning, or Monday in the day sometime, did they take you from the precinct, or carry you any where? A They carried me to the Flower Hospital.

Q The Flower Hospital? A Yes, sir.

Q With whom did you go? A I went along with Officer Callanan and officer Kilgallen and a keeper from the prison of 54th street.

Q Two officers? A yes, sir, and a keeper from the prison at 54th street.

Q You were taken to the Flower Hospital? A yes, sir.

Q Were you and the officers together in the Flower Hos-

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pital all the time before you were taken into the sick room?

A We went in together; they left us at the floor and said, boys stand up here, and Roberts and I were handcuffed together, "Stand up there two minutes" they went into the ward Callanan and Officer Kilgallen, and they brought us into the ward and we stand about two or three minutes by the door and they said, "Boys come on in " and we went in.

Q The officers you say went in before you? A Yes, sir; about two or three minutes before me and Roberts did.

Q Went in the room? A Yes, sir.

Q After they had been in two or three minutes they came out? A Yes, sir, "Come on, let us make the identification."

Q You were still then handcuffed? A yes, sir.

Q In the hospital? A yes, sir.

Q Now did they take you up to the bed of either man seaprate? A Separate, yes, sir.

Q Separately? A yes, sir, I and he went together, we were handcuffed, they didn't take us away from each other. We went up to one fellows bed, I couldn't call his name, if I seen him now I wouldn't know him .

Q Were you handcuffed together then? A Yes, sir we

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handcuffed together then.

Q Both of you went up at the same time? A Yes, sir, both of us went up at the same time.

Q To the bed? A yes, sir.

Q Were you unhandcuffed at any time in there?

A Not at all until we got back to the Police Court; I was handcuffed all the time; the ring on the hand all the time until I got back to the Police Court.

Q You speak too fast. When you were in that hospital do you remember what bed you were taken to first, McCarthy's bed or Gentile's bed? A McCarthy's bed.

Q What did McCarthy say or what did the officer say to McCarthy? A He said to McCarthy, "You are in a bad fix, you are about to die", he says; you got to own up who did this cutting, who hurt you".

Q What did McCarthy say? A He passed the insinuation "All coons look alike to me". You are the fellow that cut me.

Q What did you say or attempt to say? A I didn't attempt to say anything; I didn't say a word not while I was in the hospital; I only listened attentively.

Q Didn't you attempt to say anything? A Not a word.

Q Didn't deny it? A No, sir; I would not deny it; I didn't say a word because I didn't do it; the officer told me I am not allowed to say anything; I didn't attempt

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to say anything.

Q What is that? A I didn't attempt to say anything; I didn't say anything.

Q You didn't attempt to say anything? A No, sir; because I told him before I got there.

Q They took you over to Peter Gentile's bed?

A Yes, sir.

Q What did the officer say to Peter Gentile?

A He said the same what he said to McCarthy and Peter simply pointed to me, he pointed to the officer, "That is the fellow out me;" I didn't say nothing to him either.

Q Now you didn't attempt to say anything? A No, sir; because I was forbidden not to say anything whilst in the hospital.

Q Now did you have any conversation with these officers while you were going to that hospital that morning? A Not a word.

Q Did the officers have any confersation with you on the way back? A From the hospital?

Q What was said by the officers to you? A Officer Callanan said, "Brown you are in a bad fix". I shrugged my shoulders and I said, "The Lord intermits." He claimed I done this crime, and I didn't do it, and I said

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the Lord would be with me. He said "you are in a bad fix." I shrugged my shoulders and said, "The Lord intermits". That is what I said to him, and that is what he said to me.

Q You did not have any further conversation with him? A No, sir, not whatsoever.

Q Now did they take you directly back to the Magistrate's Court? A They took me back to the Police Court yes, sir, to the Magistrate's Court, but not before the bar; they took me back upstairs to the cell.

Q That was the 16th day of May last year? A Yes, sir, Monday.

Q Do you know how many days you stayed up there?

A I stayed there -- I was arrested on the 15th of May so --

MR. MANLEY: I object to that as incompetent, and immaterial, question withdrawn;

Q You say you have not seen your brother since that night? A No, sir, I have not.

Q The last you saw of him was talking with this officer? A Yes, sir, with this officer on the street.

Q Now is that all that you remember that occurred that night? A Yes, sir;

Q Between you and the officer? A Yes, sir; that is all.

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Q And the persons who have testified in this case?

A Yes, sir.

Q You were not on the street with a razor that night?

A No, sir; never carried a razor in my life.

Q Did you have a guitar that night on the street?

A No, sir, I cannot play it; I did not carru it.

Q Did you cut anybody on the street with a razor that night? A Not in my life.

Q That night? A That night either.

Q How long have you been living in New York?

A Well, I came here on the 18th of September, 1903.

Q Where have you been living since you have been here? A The first job I got was at West New Brighton, Staten Island, I got a job there the first of October, that same year.

Q Will you please keep your voice up? A I got my first job in West New Brighton, Staten Island; I went to that first job I had the first of October, 1903, and I worked until 1905. In March I left there, the first day of March, 1905, I left there, and came over to New York and took a job up in the Narragansett 2508 Broadway. in that same year; I stayed there a couple of months, quit that job, and went to the Hotel Colonial, 81st street and Columbus avenue, the 12th of August, 1905,

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and I am there yet.

Q Have you been working in the Hotel Colonial in 81st and Columbus avenue since 1905? A yes, sir, 1905, the 12th of August.

Q Since the 12th of August? A Yes, sir.

Q Every day? A Yes, sir.

Q Now, when you were bailed in this case in the Magistrate's Court downstairs here where did you go to work then? A I went back to the boss, he told me -- that was on a Tuesday, he told if you want the job come back the next day Wednesday. I says, "Leave me have a rest until next week", and the next week was the 13th of June, 1910. I went there and got the job back, Monday morning at 6 o'clock, 1910, the 13th of June, to the present.

Q Working at the same place? A Yes, sir.

Q What are your duties there? A Laundryman, working in the laundry, doing the washing.

Q What is your boss's name? A I don't know his first name, his initials are C. R. Nott, Manager.

Q He is the manager you work for? A yes, sir, he is the manager, C. R. Nott.

Q You are at present employed there? A Yes, sir.

Q Now did you have any conversation with the officer that arrested you about a hat? A No conversation at all only--

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Q Did you say to the officer that you lost your hat in a street fight? A No, sir, I did not.

Q Or in a mix-up in the street? A No, sir.

Q You didn't say that to him? A No, sir.

Q But the hat that he arrested you with is your hat?

A My own hat.

Q It fits you? A Yes, sir.

Q It wasn't too large for you? A No, sir.

Q He took it to the station house? A Yes, sir.

Q Took it from you at the station house? A Yes, sir.

Q You haven't seen it since? A No, sir.

MR. MANLEY: Does your Honor want me to begin now?

THE COURT: I think you had better start now.

CROSS EXAMINATION BY MR. MANLEY:

Q Now, I imagine from your speech you come from the West Indies? A Yes, sir.

Q Is that right? A Yes, sir.

Q You came here about 1903? A Yes, sir, I came here about 1903.

Q How old are you? A I will be 32 the 12th of this month.

Q How old is Edward? A He is born in 1881, the 9th of April.

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Q You are how old yourself? A I am 32 the 12th of this month.

Q You are 32? A Yes, sir.

Q Edward was born when? A Hewas born the 9th of April, 1881.

Q Now Edward is about two years younger than you are? A Not exactly two, a year and something but not two.

Q Where did Edward work? A The last place where I knew him to work was somewhere over in Brooklyn, in a railroad.

Q Don't you know where he worked at the time he disappeared? A Well, that is the place he was working.

Q Well, tell me where it is? A That was -- let me hear the question again.

Q Tell me where he worked at the time he went away the 15th of May last year? A He was working on some railroad over in brooklyn as a porter.

Q Where? A On the elevated railroad, I don,t know what line he worked for over there.

Q Did he work as a porter on the elevated line?
A Yes, sir.

Q At one of the stations? A No, sir.
Right off -- he took off the signs and put on the signs ,

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that was his job.

Q Taking the signs off what, the cars or what?

A Yes, sir off the cars or off the station, I don't know which.

Q Did you ever go over there to the place where he worked? A I didn't have time.

Q I didn't ask you if you had time. I asked you if you ever did? A No, sir, I did not.

Q Never with him over there? A He got a job about three weeks before this thing occurred.

Q When did he work there? A He got the job about three weeks before the thing occurred.

Q Where did he work before those three weeks?

A In Rutgers Presbyterian Church, 73rd street and Broadway?

Q 73rd street and Broadway? A Yes, sir.

Q What did he do in the church? A Worked as a fireman down there.

Q A fireman in a church? A Yes, sir.

Q How long did he work there? A He worked there about two or three winters.

Q Two or three winters? A Yes, sir.

Q That is 73rd street and what? A And Broadway, in front of the Ansonia.

Q Right in front of the Ansonia? A Yes, sir.

Q Is that a small church, one story? A Well, I

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have never been in there.

Q Didn't you ever go to the church where he was working or ever see it? A No, sir; I seen the church from the outside, I couldn't tell you how it is.

Q Did you know who he worked for, the man he worked for, the man who paid him his money? A The sexton the man who paid him his money by the name of George Wright.

Q George Wright? A Yes, sir.

Q A colored man? A A white man, an undertaker.

Q Is 329 a colored house, that is all the people that live there colored people? A Yes, sir.

Q All of them? A Yes, sir.

Q How long did you live in that house? A Well, I am there about February 10th next, a year, the 9th or 10th,

Q Three or four months? A Not exactly four months, from February to May.

Q About three or four months? A Yes, sir.

Q Had Edward lived there just as long? A Yes, sir; he and I rented the apartment.

Q Are you married? A No, sir.

Q Is he a married man? A No, sir.

Q How many rooms do you have there? A Four.

Q You and he had four rooms altogether? A Yes, sir.

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Q Any body else live there besides you and he? A A fellow by the name of Joseph Jackson.

Q Had Joseph lived there just the same length of time that you did? A Yes, sir.

Q What time did this little party begin that evening? A Well I don't know wat time exactly it began.

Q I don't mean exactly. I want about, that is all I care about? A I got in there about 11 o'clock, I met the crowd in there at 11 o'clock.

Q Do you know what time it began? A I guess it began before because I --

Q What was it, a birthday party? A Yes, sir.

Q Whose birthday was it? A It was my birthday, celebrated on the 12th -- they were celebrating it on the 14th, a Saturday night.

Q Why did you wait so long if they were celbrating your birthday, why didnt you get in earlier than 11 o'clock? A It was a surprise for me; I didn't know anything about it until I got home that night; a lot of friends

Q Didn't you get there at 11 o'clock-- sure it wasn't before 11 when you got there? A About 11 o'clock.

Q When you got there how many were there? A About 8 or 10.

Q Did you have considerable beer to drink there that

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night? A I had about a case of beer.

Q Keep your voice up? A About a case of beer.

Q 24 bottles? A Yes, sir.

Q Is that all you had, just 24 bottles? A They had a half a keg of whiskey, a jug about this size. (illustrating).

Q How much was in the jug? A It was full.

Q How broad was it this way? A Well about this (indicating)

Q Had you bought that jug of whiskey? A I didn't spend a penny on it.

Q Was the jug of whiskey already in the house when you got there or did somebody send out and get it after you got there? A Everything was there when I got there.

Q Nothing was sent for besides, as you told us, the jug of whiskey and the 24 bottles of beer? A Yes, sir, nothing was sent for except the guitar.

Q What time was it when somebody said something about a guitar? A That was about after one o'clock.

Q How can you fix the time as being after one o'clock when somebody said something about a guitar, are you sure about it or just estimating it? A No, sir, not estimating it; it was after twelve o'clock when he left the house to go for this guitar.

Q How do you know that? A Because it was right then; we wanted to have some music, didn't have nothing to play no music on.

Q How do you fix the time, that is what I am asking you, are you guessing at it? A No, sir.

Q Or do you have some way of fixing the time? A No, sir;

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I am not guessing; I am telling you.

Q I want to know how you tell it? A Well,
we had the time in there by the clock.

Q You have got to talk louder? A We had a clock
in there, and some one of the fellows says "Its ^{late} too, to have
music "and I looked at the clock; it was after twelve
o'clock he goes to get the guitar.

Q How far was it after twelve o'clock when you
said that? A It was about a quarterpast twelve.

Q That is a pretty good way of fixing the time, it
was about 12:15? A Yes, sir.

Q Because you said ^{that} it wasn't too late to get music
because it was only 12:15, is that right?

A yes, sir.

Q Who was it went out to get the music?

A My brother, Edward Samuels.

Q How was it Edward went to go out and get the music?

A Well, I insisted upon him going out and getting the
guitar.

Q Why is it Edward should go and not somebody else?

A Well, the rest of the fellows wouldn't go because they
didn't belong to the house.

Q Did you tell Edward to go? A Yes, sir; I did.

Q Or did he suggest it himself? A I told him to
go.

Q we started right away? A Yes, sir.

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Q So it was about 12:15 when Edward started, was it?

A yes, sir.

Q Now, how long was it after that 12:15 before you again saw Edward? A Well, it was near two o'clock when he came back.

Q About two o'clock? A Yes, sir; about half past one.

Q Which was it, half past one or two? A Half past one.

Q Are you sure it was half past one? A About half past one.

Q How do you fix that time when Edward got back as half past one? A Well, he stayed pretty long because I know he could make the time from 61st street to get the guitar, to 69th street -- he stayed pretty long, half past one, he didn't come up ---

Q The question is how do you know it was half past one? A I looked at the clock.

Q You looked at the clock when he came back?
A Yes, sir.

Q Why did you happen to look at the clock when he came back? A A clock right in the kitchen, right over the stove.

Q How did you happen to look at the clock, what made

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you look at the clock? A Because he stayed so long.

Q No doubt he got back at half past one?

A No, sir.

Q He was gone then one hour and a quarter?

A Yes, sir.

Q Now, was he pretty badly used up when he came in?

A Well, his mouth was all swollen up; the blood coming down over his face.

Q All over his face? A No, sir; it poured from his nose, the nose swollen up, the blood rushed from his nose either side of his mouth and down on his clothes.

Q Blood all over on each side of the face?

A yes, sir.

Q Was his nose still bleeding? A Yes, sir; when he came in.

Q Sure it was still bleeding? A I am sure.

Q You see I wasn't there and you have to tell me, I don't know? A All right, sir.

Q Now, it was still bleeding, was it?

A yes, sir.

Q Did he have his handkerchief up to his nose?

A No, sir; brushed it with his coat.

Q Was he still working his arm across this way?

A yes, sir.

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Q Now, by the way, where was he going to get that guitar? A He went down to 61st street to a friend of ours.

Q What number is that? A I don't know.

Q Do you know the name of the friend? A Yes, sir.

Q What was the name? A The name was David Malcom.

Q Near what avenue was that? A He lived at that time between Tenth and Eleventh avenue.

Q Between Tenth and Eleventh? A yes, sir.

Q 61st street? A yes, sir.

Q You told him the name of the man where to go, didn't you? A Yes, sir.

Q Which lip was it that was swollen, the upper or lower lip? A The upper lip -- both lips swollen up.

Q In the center or on the side? A Both sides like as if he got a punch in the nose.

Q Just as if it landed in the center? A yes, sir.

Q Battered up pretty badly? A Yes, sir; about this size on his face (Indicating).

Q Do you mean that? A (Indicating) About this size on his face.

Q About half an inch or an inch? A About half an inch.

Q Puffed right up? A yes, sir.

Q Was it bleeding? A Yes, sir; his mouth was

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